the weekly
Standard

JUNE 15, 1998 $2.95

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The Audit Bureau Member

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Clinton's Pentagon Papers . . . cont.

The Scrapbook has "obtained" (thank you, Judicial Watch) a March 16 memo from Cliff Bernath of the Pentagon public-affairs office, explaining how he and his boss Ken Bacon decided to leak information from Linda Tripp's confidential security file to *New Yorker* reporter Jane Mayer, thereby violating the Privacy Act—a post-Watergate federal law passed to criminalize the Nixonian practice of rifling the confidential files of political enemies.

In the memo, Bernath describes a Thursday evening (March 12) conversation with Bacon, who "asked me to help Ms. Mayer get the information she needed as soon as possible in the morning." Which Bernath promptly did the following day, as he told Judicial Watch in a deposition and as Jay Nordlinger reported in this magazine's May 18 and June 1 issues (see page 10 for his latest installment). The information in question was contained in a highly confidential Defense Department personnel document, Form 398, on which Linda Tripp had failed to report being arrested when she was 19.

Mayer and Bernath and Bacon all thought that the result of Mayer's article would be to land Tripp in deep legal trouble. But Tripp's arrest turned out to be a Keystone Kops mix-up that had been quickly reduced by the judge to a minor infraction. The infractions of Bacon and Bernath, on the other hand, look to be more serious, but so far have gone unpunished.

Bacon testified under oath that Bernath "volunteered" to help Mayer. Bernath's memo contradicts Bacon's sworn account. Bernath says of the illegal file-leaking, "Ken has made clear it's a priority."

The Scrapbook discerns two important unsettled questions here. First, Bacon and Bernath and White House spokesman Mike McCurry and Sid Blumenthal and Ann Lewis and no doubt the neutered White House Labrador Buddy, too, have all denied that Bacon was in contact with the White House about the issue of Linda Tripp's arrest and what she reported on her security form. What The Scrapbook wonders is, How did Jane Mayer know to ask Bernath on March 13 in considerable detail about Tripp's responses on various confidential forms? Mayer's scoop was that Tripp had been arrested. What made her doggedly interested in, and knowledgeable about, the forms Tripp would have filled out as a government employee? It is by no means an obvious line of inquiry, unless she was chiefly seeking to damage Tripp's credibility, as the White House is doing these days, for obvious reasons.

Was Mayer tipped off to ask Bacon about this by someone else who had seen a file of Tripp's and knew she had said she was never arrested? Tripp, after all, had worked at the White House. Her standard personnel Form 171 may well have been available to someone there. Did a White House official suggest to Mayer that she pursue the lead at the Defense Department so there would be no White House fingerprints? This would have relieved Bacon of the responsibility to coordinate his dirty tricks with top presidential aides. Could this be one of the things Ken Starr is asking Sid Blumenthal about before the grand jury?

The second question is, When is President Clinton going to live up to his campaign promise to fire the likes of Bacon and Bernath? Back in 1992, when candidate Bill Clinton found out that his passport files had been rooted through by Bush appointees in the State Department, he was ticked off enough to do his finger-shaking, stare-in-the-camera trick: "If I catch anybody doing it," he said, "I will fire them the next day. You won't have to have an inquiry or rigmarole or anything else."

This was a lie, as we now know. It was already clear on March 16 that Bacon and Bernath at the very least had met Clinton's supposed standard for an immediate firing. But now, more than two months later, they still have their jobs, and Bernath has even received a handsome promotion. The only reaction of the administration was to order the Pentagon inspector general to investigate, and it must be one hell of an investigation, since it's still continuing. The appropriate congressional oversight committee might want to see how this investigation is coming along.

It's always possible, of course, that the president in this case is more of a coward than a liar. If Bacon didn't talk to the White House about Jane Mayer's Linda Tripp inquiry; if he didn't need to because he knew (from Mayer) what the White House wanted him to do; then maybe it would be too risky for the president to fire him.

Just a Friendly Little Smear

California lieutenant governor Gray Davis won the Democratic nomination for governor last week. Davis, the Washington chat shows all seem to agree, personifies the overarching "meaning" of this year's primary campaigns. "Cool," experience, competence are in. "Hot," insurgent candidacies are out. Wanna run for office this year? Don't throw angry mud bombs at the incumbent. Voters don't like that stuff anymore. Adopt a pose of gentlemanly professionalism, instead. Like good ol' Gray.

Too bad good ol' Gray didn't get this message himself. On the final Saturday of the campaign, Davis told a convention of Hispanic activists in Long Beach that outgoing

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Republican governor Pete Wilson had been a "disaster" for California. "He's lucky we didn't impeach him." The following afternoon, at a backyard picnic in the San Fernando Valley, Davis told his audience that Wilson "likes to fan the flames of discontent, anti-Semitism, and bigotry"—and was therefore "one of the worst governors of the 20th century."

Gosh, Mr. Davis, the *Los Angeles Times* then asked him, could you remind us which impeachable offenses Pete Wilson has committed? And when has he ever been guilty of anti-Semitism? "Well," Davis smiled, "sometimes you take a little political license in these campaigns." But only a little. You certainly wouldn't want to slander anybody or anything.

Down for the Count

The battle over the 2000 Census continues. Republicans are urging the traditional head count. Democrats warn that such enumeration misses vast tranches of the American people—particularly that subset of the American people that votes Democratic. So they urge scrapping traditional Census procedures and extrapolating through a process known as sampling.

Last week, Republicans began to complain about California Democrat Tony Coelho, the onetime House majority whip who resigned in disgrace during the savings-and-loan scandal. Coelho, now a lobbyist, is President Clinton's appointee as co-chair of the bipartisan Census Monitoring Board. Coelho, Republicans say, is sabotaging the board's work in order to leave the field open for a Clinton-generated plan to put sampling into place. GOP Hill staffers even hinted they might subpoena Coelho to get him to reveal his government clients if he didn't get the committee moving.

The White House immediately counterattacked, warning in a press release that "children, the poor, people of color, city dwellers, and people who live in rural rental homes" are particularly susceptible to undercount. The stakes are high, says the White House press office, for the Census "is the basis for virtually all demographic information used by educators, policy makers, journalists and community leaders. America relies on Census data every day—to determine where to build more roads, hospitals, and child care centers."

Okay, then. The Scrapbook hereby issues a challenge to the entire executive branch. If *anyone* in *any* department can name *any* instance at *any* time since the 1990 census in which a road, hospital, or child-care center was built in the wrong place because of faulty Census data, please let us know.

Dan Quayle Was *Really* Right

Candice Bergen, the actress formerly known as Murphy Brown, has come clean in a *Los Angeles Times* profile about the famous 1992 contretemps in which Vice President Quayle zinged her TV character in a speech about family values for setting a bad example by blithely choosing to be a single mother. Says Bergen now: "I agreed with all of it except his reference to the show. . . . The body of the speech was completely sound." When the baby was practically written out of the sitcom the next season, says Bergen, "it was very distressing to me, and I couldn't get them to change it."

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Casual

THE SELF-REVEALERS

A couple of years ago, I watched an entire infomercial about toupees. It was late, and I was stranded alone in a motel room, but it wasn't boredom that kept me tuned in. It was the testimonials. "The girls at the health club used to laugh at me," one satisfied wig buyer explained to the camera. "Not any more." (Wait till they see this infomercial, I thought.) A half dozen other guys in bad rugs followed with their hard-luck tales of life before hair: "I couldn't get a date." "I was afraid to go shopping." "I was stuck in a dead-end job." In each case, a new hairpiece had been the answer. It made for compelling television.

But it also made me wonder: What was the point? Why go to the trouble and expense of pretending you're not bald, only to go on television and talk about your fake hair? It didn't make sense.

Until Viagra. The *Washington Post* broke news of the erectile miracle in a front-page story one Sunday in April. "It really, really works," enthused Alfred Pariser, a retired movie executive from Rancho Mirage, Calif. As if to prove it, the *Post* ran a photo of Pariser cuddling with his wife, Cheryl. In the picture, the Parisers look happy but worn out, and no wonder. Thanks to Viagra, Alfred told the paper, he and Cheryl are now mating "sometimes two or three times an evening."

Pariser may be exaggerating a bit—Viagra or not, he's 58 years old—but that's hardly remarkable given the subject. What is remarkable is that he and his wife were willing to tell the world about their sex life. Why did they do it? Because, like the infomercial wig-wearers, the Parisers can't help themselves. They're compulsive self-revealers.

A lot of Americans are, I've learned. A couple of weeks ago I caught a cab in Los Angeles. We hadn't gone a mile before the driver launched into a monologue about all the unsavory people who have ridden in his car over the years: actors, drunken foreign businessmen, people who don't tip. The worst, he confided, are the politicians. "They're just the lowest," he said. "I mean, *I* cheat on my taxes, but those guys . . . "

It went on like this for half an hour, virtually every sentence revealing something new and embarrassing about the driver's personal life—how he'd once worked as a hash dealer in India; how his son, the one with the drug problem, had finally found happiness doing body piercing in Hawaii; how he himself still smoked pot from time to time, though increasingly he was turning to concentrated ginseng oil for a more natural high.

By the time we got to the hotel I was exhausted. "Here's my card," he said cheerfully, leaning over the seat. "Give me a call when you come back to town." Sure thing, chief. I'm being transferred to the IRS field office here next week. I'll look you up then.

That's what I should have said. Instead I just took his card and thanked him for the insights. It's hard to know what to say when you're in the company of a compulsive self-revealer. All you can do is listen.

And over the years I have: To the woman next to me on the plane who talked for an hour and a half about her husband's testicular cancer and subsequent nervous breakdown. To the car-service driver who explained how he was committing adultery with his next-door neighbor. (He gave me his card, too.) To the hitchhiker I picked up outside Baltimore who informed me that although he'd had some "problems" with schizophrenia in the past, his time in prison seemed to have eased the symptoms. And of course to countless tales of addiction, self-help, and recovery. Just the other day, a cabby spent the entire trip from Capitol Hill to Georgetown reading me selections from his unpublished poetry.

Self-revealers ought to be a reporter's dream. Who needs Deep Throat when the guy next to you in line at CVS can't wait to tell you about every appalling thing he's ever seen or done? It sounds great. I can't stand it.

Last fall, by weird coincidence, I wound up on the phone with a man who had been my soccer coach in the third grade. I was doing a story on a topic he knew something about, and before we got down to the point of the call, we chatted for a while. He mentioned his wife and children, whom I remembered well. Then, without warning, he began to compulsively reveal. "Here's an interesting story," he said. "A couple of years ago this banker friend of mine told me about this beautiful girl, absolutely gorgeous. He said, 'Why don't you try her? She's terrific. She's a hooker.' And I said, 'Okay, that sounds great.' So I went to her condominium one night and . . . "

My mouth hung open. Don't say it, I pleaded wordlessly. Please, don't say it.

But he did. Graphically. No doubt he felt better afterwards. Talking to me was a lot easier than going to confession. At least for him.

TUCKER CARLSON

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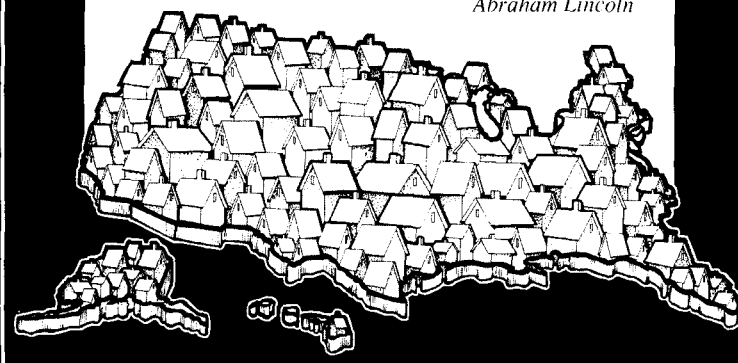
"The Strength of a Nation Lies in the Homes of its People"

Abraham Lincoln



Home ownership is a stepping stone to prosperity and stability--for families, for a nation. Abraham Lincoln, realized this when he told the American people 140 years ago: "The Strength of a Nation Lies in the Homes of its People." It's as true today as it was then. In fact, owning a home, along with steady employment and obtaining education are the main components of the "American Dream." Raising the limits on loans insured by the Federal Housing Administration (FHA loans) will make the dream of home ownership a reality for more families.

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Jobs, Immigrants, Americans

I am writing in regard to "Give Us Your Huddled Engineers" (Scrapbook, June 1). Increasing the number of skilled foreign workers who may enter the United States will help high-tech companies continue to grow.

The Workforce Improvement and Protection Act increases the number of skilled foreign workers admitted to the United States to meet the needs of high-tech companies. And it also protects the jobs of American workers.

The bill ensures that high-tech companies do what they have told Congress they already do: hire foreign workers only after they have made a good-faith effort to recruit qualified American workers.

What is so wrong, for example, about asking companies to place ads in newspapers for job openings before they hire from abroad? If a qualified American worker is available, he or she should get the job.

Rep. Lamar Smith
Chairman
House Subcommittee
on Immigration and Claims
Washington, DC

Loathsome Twosome

I found it ironic to read Matt Labash's "Simpson on Clinton" (May 25). I had been reading Daniel Petrocelli's book on the Simpson civil trial and was struck by the numerous similarities between Simpson and Clinton.

It is little wonder that Simpson is in the Clinton camp. The two men share many negative personality traits. Both men are compulsive womanizers and proud of it—marriage is clearly not sacred to either of them. Both men deny responsibility for the consequences of their actions. Both men find it astonishingly easy to lie and are self-righteous about the propriety of their acts, no matter how heinous. Clinton and Simpson value power and celebrity over truth, justice, and ethical conduct. Both men vow to find those responsible for the misdeeds attributed to them, but do everything in their power to foil investigations.

Most curious of all is that Clinton

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and Simpson are surrounded by an entourage of sycophants—usually bright, well-educated people who are willing to sacrifice any and every shred of personal integrity to defend the indefensible. This is what I truly do not understand.

PATRICIA MCCARTHY
BURBANK, CA

SOCCER DON

Fred Barnes suffers from "kinder-bias" in his review of the potential of lacrosse to become the next national sport ("The Grand New Game," June 8). Soccer remains the front-runner for many reasons, most important of which is that it prohibits the use of hands. Contrary to Barnes's view that this is the "dumbest rule of any sport," it trains youngsters to control—as well as to release—the rest of the body, particularly the lower half.

As for the ball, wouldn't you rather have a bigger one that's easier to see? Frankly, those who play "air hockey" like lots of equipment, the compulsive clatter of the game, and the fleeting sense of exclusiveness it confers. But all one needs for soccer is a ball. Its simplicity is the key to its universal and timeless appeal.

GEORGE BALL JR.
WARMINSTER, PA

BEYOND RECALL AND REALITY

Tucker Carlson's "What, Me President?" (June 1) cries out for a companion piece on Clinton's selective memory. His "recollections" of black churches being burned down in Arkansas when he was young (it never happened) and his "winning" of the New Hampshire primary back in 1992 (he didn't) are worthy of a review. It would be fascinating reading—pathological, even.

PAMELA J. BROWN
LOS ANGELES, CA

THE FINAL VINDICATION

William Kristol's "Clinton Is the Issue" (May 25) deserves a few words of thanks. I admired the concentration, the moral eloquence, and the forcefulness of Kristol's assessment of Clinton and the nation's predicament. I think history will vindicate Kristol.

HAL RIEDL
BALTIMORE, MD

THE ICEBERG COMETH

Perhaps President Clinton really believes that his dollar diplomacy will coax the communism out of the Communists ("A Scandalous Summit," June 1). But I suspect the president needs the Chinese as much as they need him. By opening China's markets, Clinton is growing our economy—thus deflecting attention away from the cloud of scandal that is following him. He is promoting raw capitalism, unfettered by principle or concern for human rights.

Twice the American people have voted to affirm that character doesn't matter in their president. Such an arrogant idea offends the moral order and is the political equivalent of proclaiming that a ship is unsinkable. How ironic that as America launches the award-winning *Titanic* into movie history, we are blissfully unaware of its tragic lesson. The Chinese iceberg looms on the horizon.

THOMAS M. BEATTIE
MT. VERNON, VA

THE WORD AND THE LIFE

Hadley Arkes makes many good points on the abortion issue ("Slouching Towards Infanticide," May 25). As one who is convinced that life begins at the moment of conception and that, therefore, abortion is murder, I laud Arkes for his work.

The Latin word "fetus" means "baby." Abortionists prefer to use the word "fetus" because it sounds less like a reference to a person. Perhaps pro-life advocates should insist on substituting "baby" for "fetus" when abortion is discussed.

PETER G. MALONE
PARK RIDGE, IL

INNOCENTS AT HOME

Eric Felten's piece on the travails of Merriam-Webster regarding the "n-word" ("Improper Nouns," June 1) evokes memories of equally self-defeating campaigns by African-American groups to have *The Adventures of Huckleberry Finn* removed from school-library bookshelves. The complaint was that the "n-word" appeared more than 300 times in Twain's novel. Incredibly, these well-meaning groups would have denied children the privilege of enjoying what is probably the most eloquent plea for racial tolerance and understanding ever written in the English language.

I'll forgo the obvious Orwellian cheap shots and say this: It's far better to have this offensive word defined for what it is and exposed to the light of day than to indulge in self-deception and deny that it exists.

RONALD M. WADE
ROCKWALL, TX

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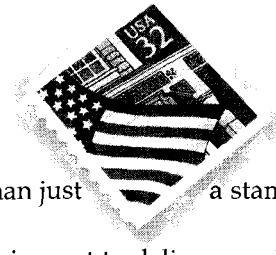

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the weekly Standard

UNITED STATES V. CLINTON

Monday through Thursday of last week marked what must be the most cynical four-day period in the history of the American presidency.

For more than three months, from late February to the end of May, the Clinton administration argued that the Republic would collapse were White House aides Bruce Lindsey and Sidney Blumenthal forced to testify, unprotected by "executive privilege," about Monica Lewinsky. The two men must be allowed to refuse grand-jury inquiries in the matter, the White House advised U.S. district judge Norma Holloway Johnson, if the president "is to perform his constitutionally assigned duties." The most "rudimentary constitutional principles" require such absolute secrecy, the president's lawyers insisted, and "one cannot overstate the intolerable threat" posed to the institutions of American government by any demand that Lindsey and Blumenthal tell the whole truth.

WHITE HOUSE LAWYERS WENT SO FAR AS TO SUGGEST THAT STARR HAD IMAGINED THE ENTIRE EPISODE. EXECUTIVE PRIVILEGE? NEVER HEARD OF IT.

Judge Johnson was not impressed by these outlandish warnings. She ordered both men to reappear before the grand jury and answer every disputed question. Whereupon the White House, hoping to tie up independent counsel Kenneth Starr in another few months of litigation (and withhold the Lindsey/Blumenthal executive-privilege evidence from any impeachment report Starr might forward to Congress), asked the federal circuit court to review and overturn Judge Johnson's ruling. Quickly. The issue was of such moment and enormity, according to the president's attorneys, that the appellate panel should accept briefs and hear arguments on a special, "expedited" basis.

But then, on May 28, Starr sought Supreme Court intervention to short-circuit all this folderol—in a case evocatively labeled *United States of America* v. *William Jefferson Clinton and the Office of the President of the United States*. And White House urgency, along with those "rudimentary constitutional principles," suddenly disappeared. On Monday, June 1, without courtroom explanation, the administration mooted the executive-privilege controversy by abandoning the claim altogether. In their own brief to the high court, filed that same day, White House lawyers went so far as to suggest that Starr had imagined the entire episode. The independent counsel, they sarcastically informed the justices, "purports to present questions that the Office of the President would not have raised in the court of appeals." Executive privilege? Never heard of it.

This was bold. But there was bolder stuff to come. Last week the White House did not abandon—but instead restated and actually expanded—a separate claim of "attorney-client privilege" over part of Bruce Lindsey's subpoenaed Lewinsky testimony. That claim has always been tortured but explicit: Clinton's Lewinsky-related crimes might prove so grave as to warrant an official impeachment proceeding; the president is therefore entitled to an official defense by government lawyers like Lindsey; and Lindsey's knowledge of said crimes, gleaned in the course of defending the president, is therefore beyond reach of the grand jury. Early last month, Judge Johnson ruled that this theoretical privilege must fall. Because the independent counsel had demonstrated a conclusive need for Lindsey's evidence. And because executive-branch employees, including Lindsey, are required by law to report criminal evidence to the appropriate authorities.

But on June 1, the White House told the Supreme Court that Judge Johnson had erred. How? She had misapplied the law. White House staffers are *not* obliged to come forward when they become aware of a felony because "in this context," the law says, "the

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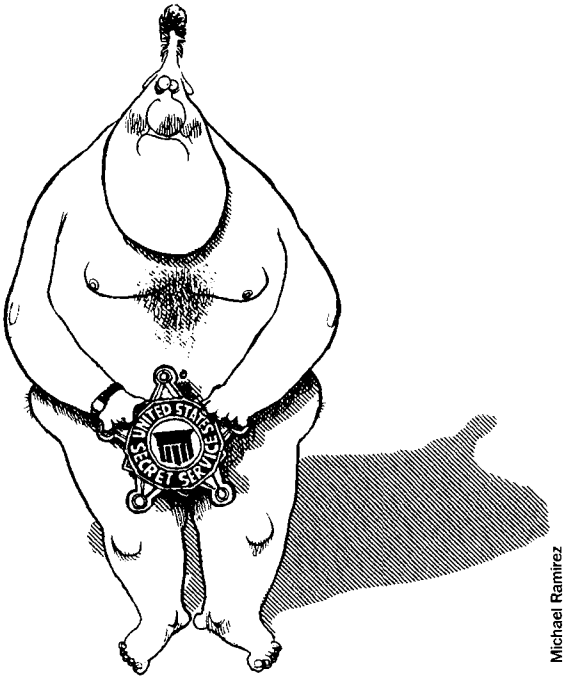
Office of the President is not a '*department* or *agency* of the executive branch of the government.'" In other words, the White House last week declared itself, for purposes of the Monica Lewinsky scandal, a fourth branch of government, unanswerable to the judiciary or Congress. And in the same breath, the White House reassured the Supreme Court that "the fate of the Nation will not hang in the balance" if this astounding subversion of the Constitution is maintained for another few months.

Finally, last Thursday came the Clinton administration's latest explication of "protective function privilege," the newly invented doctrine under which Secret Service agents have so far resisted giving *their* testimony to the Lewinsky grand jury. Until this privilege is firmly established in law, the Justice Department has argued, the president will fear his bodyguards as potentially hostile criminal witnesses—and hold the Secret Service at arm's length, thereby dramatically heightening his risk of assassination. Protective-function privilege has *not* been established in law, of course. Judge Johnson rejected it out of hand. And while the administration pursues an appeal of her ruling, the president must therefore remain in peril, right? No matter. On June 4, solicitor general Seth Waxman told the Supreme Court that the Justice Department was "unable" to conclude that any final, emergency resolution of this question was necessary. Better that the president be vulnerable to bodily harm, apparently, than that the Lewinsky grand jury determine he had sex with an intern.



Michael Ramirez

Attorney general Janet Reno, incidentally, tells reporters that Waxman, her employee, reached this amazing conclusion on his own, without her direction. The Secret Service and Treasury Department, for their part, claim to be asserting the presidential protective-function privilege without instruction from their boss, the president. The president, for his part, now contends, through White House counsel Charles F. C. Ruff, that he owes the American people no further explanation of his relationship with Monica Lewinsky. *Time* magazine reports that Clinton has decided *never* personally to cooperate with the Starr investigation. And Clinton's West Wing—the new fourth branch—announces through press secretary Mike McCurry that its total innocence of any Lewinsky-related crime is no longer in serious dispute. After all, the president's lawyers have "stipulated to that in the court documents that have been filed."

The Clinton administration, in short, has made itself accountable to nobody. Which means we have a constitutional crisis on our hands. This crisis cannot ultimately be resolved by the independent counsel and the courts. Sooner or later, the legislative branch, the first branch of government, will need to vindicate the rule of law.

—David Tell, for the Editors

Linda Tripp's Stepmother

by Jay Nordlinger

The effort to tarnish Linda Tripp is sometimes appalling, sometimes comical. Ever since the former White House secretary emerged as a threat to Bill Clinton's presidency, she has been the target of furious examination. Her story has always had its share of intrigue: sex, divided loyalties, an FBI wiretap. Now it has a long-forgotten stepmother—and not a terribly nice one at that.

Last week, the *New Yorker* ran its second exposé of the hapless Tripp. The first, published in March, had created a minor sensation. It reported that Tripp, when a teenager, had been arrested for grand larce-

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ny—and that she had failed to indicate any arrests on a government security form. The Pentagon, Tripp's current employer, quickly announced an investigation. But it just as quickly dropped that investigation—and announced another.

The arrest, it transpired, had not been as damning as the *New Yorker* made out. Tripp maintained that she had been the victim of a juvenile prank, and the judge did indeed reduce the charge against her to one count of loitering. Tripp also recalled that the judge had reassured her that the incident would not remain part of her record. So instead of putting the screws to Tripp, the Pentagon launched a probe of its own employees: the men who had released information from Tripp's confidential file to the *New Yorker*'s Jane Mayer. At least one of those men—assistant defense secretary Ken Bacon, a former colleague of Mayer's—may lose his job over the affair. Thus did the attempt to sting Tripp leave the stingers themselves stung.

This led to Mayer's second volley against Tripp, which was introduced by an extraordinary "Editor's Note." The original article, the note said, had been a 3,500-word profile, and yet "one short passage"—that concerning the arrest and security form—"quickly became the focus of controversy." This should not have come as a surprise to the magazine, given that it had trumpeted precisely that passage in a press release three days before the article's arrival on newsstands. The press release warned, in breathless and excited paragraphs, that Tripp could face dire consequences for concealing her past and trying to trick the government.

The *New Yorker* last week further contended that the basic facts of the case were not "disputed." And still—who would have guessed?—the magazine had been "attacked by some commentators and by activists interested in minimizing damage to Tripp, whose credibility is an important factor in the investigation by Kenneth Starr." In truth, Tripp's credibility is far less important than her numerous tapes of Monica Lewinsky, but the *New Yorker* apparently felt the need for a rationale in its campaign against Tripp. In addition, the magazine was eager to point out that, contrary to ex-presidential adviser Dick Morris and others, the tip on Tripp's arrest had not come from the White House and its team of detectives—it had come from a curious source discovered by Mayer and by Mayer alone, without any assistance from Friends (or Sleuths) of Bill.

That source was one J. Lowe Davis, the former wife of Tripp's father. It was she who informed Mayer that Linda, back in 1969, had had a run-in with the law. Davis remembered that Tripp's father had received a call from Tripp's mother, who told him of Linda's predicament. According to Davis, the father later remarked that Linda had "sunk to the bottom," at first lying about the arrest, then confessing the truth. Davis's answer to Tripp's account of events? "No, she wasn't set up." She added to Mayer that her "motivation for speaking out" was "neither personal nor political"—merely sincere. "I have searched my soul about this," Davis said, "and am sure I am not acting out of vindictiveness."

Davis, however, is no ordinary ex-stepmother: She is a journalist, and a columnist, no less, for the Pensacola *News Journal*. Three years ago, she was project editor for a series that won the Pulitzer prize. Her weekly column is a blend of Erma Bombeck and Molly Ivins. And on March 27—following the first Mayer article, but well before Davis was revealed as Mayer's principal source—she devoted her column to her newly rediscovered former stepdaughter, Tripp.

DAVIS IS NO ORDINARY EX-STEPMOTHER. SHE IS A JOURNALIST, AND A COLUMNIST, NO LESS, FOR THE PENSACOLA *NEWS JOURNAL*.

"Believe me, I wish I had more to tell," Davis began, far too modestly. She was just sitting around, she said, when this reporter from the *New Yorker* dialed her number. She had always figured, as an "immutable truth," that "the editors of that elite magazine would never put my name in or on a story." Why, "they probably would not even allow me to subscribe."

It was Mayer, Davis wrote, who alerted her to the fact that the woman in the news, giving the president fits, was the daughter of her former husband. Both father and daughter, Davis said, "have been off my radar screen for more than 20 years." She had not connected "the 48-year-old notorious whistleblower" with the "27-year-old young woman" she met only once, "briefly," shortly before she and Tripp's father divorced. And Davis was, she admitted, the woman for whom Tripp's father had left his wife—the root, in Mayer's mind, of Tripp's contempt for an adulterous and dishonest president.

In her column, Davis showed herself to be anything but neutral on the subject of Tripp: She referred to her as "the woman who gave betrayal a bad name." Furthermore, she claimed to be relieved that she had been unable to contribute to Mayer's research: "Thank heaven, I had nothing to add to the Linda Tripp file. Thank heaven, I didn't earn more than a mention in The New Yorker's pages." ("Don't you

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agree, Linda?" Davis ended. "You *are* listening, aren't you?"—a gibe at Tripp's taping of Lewinsky.)

But, of course, Davis had had plenty to add. She was the very one who, according to Mayer, supplied the seemingly golden nugget about Tripp's criminal past. She was the one who whispered the word that, if valid, might have caused Tripp to be fired from her job, and that tempted the Pentagon's public-affairs office to violate the Privacy Act, and that embroiled an already-embattled Tripp in a brand-new scandal. Davis, it appears, has no less than a starring role in this drama. Her column, in which she played the innocent, and Mayer's second story, in which the stepmother laid the trap, cannot both be right. (Davis did not return the phone calls of THE WEEKLY STANDARD.)

The *New Yorker*, in its editor's note, conceded that the "details" of Tripp's difficult night 29 years ago "are of no great significance in themselves." What "makes them important," the magazine asserted, "is Tripp's prominence as a potential witness for Starr." Mayer herself concluded her piece almost apologetically, writing that, "whether or not Linda Tripp told the full truth," it is "remarkable that American politics now seems to hinge on such trivial pursuits." But nothing so grand as American politics hinges on those pursuits—Mayer's chase is simply a game of "gotcha," played against a government employee whose tape recorder has proven dangerous to a slippery president.

On May 27, Frank Rich of the *New York Times*, perhaps anticipating dynamite in the second Mayer article, began his column, "Is it possible that there's even more embarrassing news yet to be learned about Linda Tripp?" It is possible, yes—but whether such news will be true (not to mention relevant) is another matter. Tripp has been the object of legitimate and proper inquiry—but also of smears and vilification. And there is no let-up in sight.

Jay Nordlinger is associate editor of THE WEEKLY STANDARD.

CALIFORNIA VOTING

by Michael Barone

ONE THING LAST WEEK'S California primary for governor did *not* prove is that voters reject candidates who spend heaps of their own money on their campaigns. Political reporters, few of whom could self-finance a campaign, and other politicians naturally resent such candidates, but voters don't much care. The real story of the California primary is contentment: Two voters out of three told the *Los Angeles Times* exit poll that California is moving in the right direction. In the case of the Democrats, who voted in especially large numbers (they had a choice among would-be nominees for governor, unlike the Republicans), something even stronger was at work as well: a fierce determination among party loyalists, who have been rallying around their president, to keep matters as they are. Hence the big victory for Gray Davis, who has held high public office in California for 23 of the last 25 years.

Davis was also helped by his opponents' mistakes. Jane Harman entered the race only after Dianne Feinstein bowed out on January 20. Harman's knowledge of California government and its impact on the lives of voters was thin, and it showed. California Democrats, having nominated Feinstein (three times), Barbara Boxer, and Kathleen Brown in the 1990s, felt no compulsion to nominate a woman once again, and Al Checchi's preparation was much more impressive. But he spent most of his money, starting last fall, on commercials preaching the need to shake things up, the need for change. That message ran counter to the sensibility of Democrats rallying to Bill Clinton after the Lewinsky affair became public on January 21.

Then, when Harman zoomed up in the polls, Checchi went after her. It was the classic three-candidate-primary mistake: Candidate A attacks Candidate B, hurting her but also himself—and helping Candidate C. Checchi presumably figured he had enough money to rehabilitate himself and then if necessary savage Davis. But in the last four weeks Davis, with $9 million raised mostly on the West Side of Los Angeles, and Harman, with over $10 million of her own money, were able to continue spending. Davis, ostentatiously courting Democratic powers like the unions and San Francisco mayor Willie Brown, coasted in. You might say he won the election on two days in January, when Dianne Feinstein bowed out of the governor's race and Monica Lewinsky arrived on the political scene.

What about November? Either candidate could win. Both Davis and Republican Dan Lungren are two-term statewide incumbents, positioned for success in times of contentment. Davis, the lieutenant

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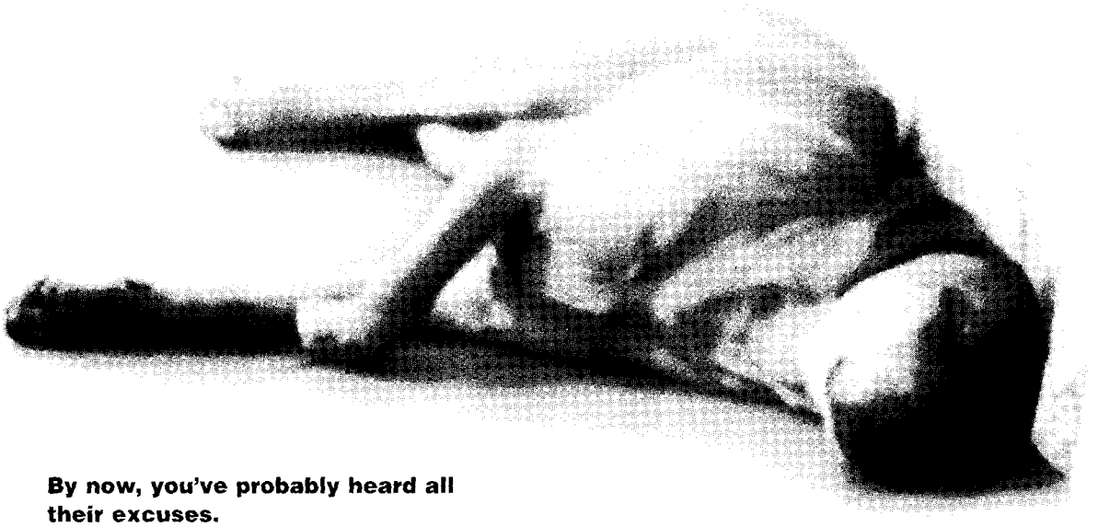
How Long Will These Sleeping Dogs Lie?



By now, you've probably heard all their excuses.

The Big Dogs, AT&T and MCI, are still howling that they can't compete in local telephone markets. It's just too difficult. It requires too much effort.

Just because they don't want to compete, doesn't mean there isn't competition.

Recently, the Federal Communications Commission held hearings in which smaller, local competitors described their success in competing against the Bell companies.

These smaller companies don't have the tens of thousands of employees that the big long distance giants do. They don't have billions of investment dollars. But they are competing.

While the big dogs are sleeping, Regional Bells are working to make competition work.

How? Local phone companies have devoted more than $4 billion and assigned over 8,000 employees to make sure competition works. They've built customized network elements; offered on-site network training and customer service 24 hours a day, 7 days a week. All to connect MCI, AT&T and other competitors to local markets.

You know those big dogs. They lie around all day.

MCI and AT&T have given up on local residential service. Why? The markets are open. Smaller companies are competing. Competition is here.

MCI and AT&T are stalling competition. They only want competition on their own terms. On their own timetable. That's what their executives conceded during recent merger discussions.

Wake up big dogs. And stop all that lying around.

We'll connect all Americans if we're allowed to compete.

UNITED STATES TELEPHONE ASSOCIATION

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governor, will presumably pander less to core Democratic constituencies than he did during the primary; Lungren, the attorney general, has taken care not to consort with the hard Right. The problem for both will be prescribing a cure for the ailing parts of the public sector—notably the state's incompetent public schools—while sounding a soothing note. Davis's tack has been to criticize outgoing governor Pete Wilson for divisive stands on issues. Lungren's has been to project the sunniness and confidence of the 1950s California in which he grew up.

The gubernatorial-primary numbers—the fact that many more votes were cast for the three Democratic candidates than for Lungren—probably don't forecast the final outcome. In Alaska and Washington, the two states that have long used the "all-party primary" system that California instituted last week, voters tend to flock to candidates who face a serious contest. A better measure of party strength: In each of the two down-ballot all-party primaries in which both parties had contests, the Democratic candidates together averaged 49 percent of the vote, the Republicans 47 percent—less than the Democratic edges in elections for the U.S. House and California assembly in November 1996, similar to the small Democratic edge in the 1996 and 1994 primaries, and smaller than the large Democratic edge in the 1992 primary.

And there was a danger sign for Democrats. In Washington and Alaska, incumbents who fall below 50 percent in the all-party primary often lose in November. Sen. Barbara Boxer won just 44 percent of the votes, to 42 percent for Republican contenders Matt Fong and Darrell Issa. In 1992, Boxer won her seat by 48 percent to 43 percent as a protesting feminist, when California voters were angry and eager for change. Can Boxer adjust her appeal to win in a time of voter satisfaction and when her embarrassed silence about the charges against Bill Clinton leaves her claim to principled feminism in tatters? Fong, winner of the Republican primary, has notable strengths. He is the incumbent treasurer, takes inoffensive stands on the issues, is the son of a longtime state official (secretary of state March Fong Eu, a Democrat), and is of Asian descent in a state that loves to proclaim its diversity. Still almost unknown, he is now one of the Republicans' best chances for picking up a Senate seat.

Michael Barone is senior staff editor at **Reader's Digest** *and co-author of* **The Almanac of American Politics.**

Microsoft's Formidable Foe

by Irwin M. Stelzer

To hear Bill Gates and Microsoft partisans tell it, antitrust chief Joel Klein is a wild-eyed radical, determined to destroy the capitalist system by making success and bigness crimes. If not a radical, Klein is a reactionary, they say, in the grip of antique economic doctrines forged in the age of steel, oil, and heavy industry, but not applicable to the new infotech age that Bill Gates has ushered in. Microsoft would have us choose between Gates—the innovator, self-made billionaire, and benefactor to the world's consumers—and Klein, a bureaucrat who never met a payroll and has the bureaucrat's innate hostility to successful captains of industry.

It's an appealing story line, but utterly misleading—Klein doesn't fit the part for which Microsoft has cast him. A shrewd advocate, he is not insensitive to the public relations aspect of the war in which he is engaged, as I came to appreciate over lunch with him recently. He has an earthy charm (his unrealized dream was to be a Knicks point guard) and an engaging (to this writer) remnant of an accent and speech style honed on the streets of New York. More important, Klein is no anti-capitalist ideologue. Consider a decision that very nearly cost Klein his job—his failure to move against the gigantic merger of Bell Atlantic and Nynex, two Baby Bells too much in a hurry to grow up to do it the old-fashioned way, by providing great service at competitive prices. Klein says it was a close call, but that he was not convinced by those who argued that these two telecoms companies would have ended up competing if they had not been permitted to merge. An anti-big-business type would have had no second thoughts about challenging this merger.

Revealing, too, is the fact that Klein's hero, the man who had the greatest influence on his approach to legal issues, was Supreme Court Justice Lewis Powell, for whom Klein clerked. On the court, Powell was the epitome of a conservative member of the establishment, a Virginia lawyer who approached each case on its merits, examined the facts, and wrote well-reasoned decisions. Among these was the famous *Sylvania* decision in 1977, which allows manufacturers to restrict sales of their branded products to a single

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franchised dealer in an area. Powell in effect legitimized a form of marketing that eliminates competition between sellers of, say, Sunbeam appliances in a specified geographic region—if doing so would promote Sunbeam's competition with other brands. It is difficult to imagine a decision that brought greater satisfaction to the business community than did *Sylvania* in its day. In short, Powell is hardly the man that an anti-business ideologue would select as a hero.

Nor, it should be noted, is Judge Robert Bork, who Klein delightedly notes has enlisted in the anti-Microsoft camp (after reviewing offers from both sides, I am told, with the spurned Microsoft offer the more lucrative). Bork's choice of sides should give pause to those who have attacked Klein for threatening to deprive us of the efficiencies Microsoft claims to have produced in its own industry: He is the most elegant advocate of the position that (to quote the epilogue of his classic, *The Antitrust Paradox*) "the goal [of antitrust] is maximum economic efficiency." Klein's delight in having Bork on his side is, of course, in part strategic: Bork is a powerful advocate, and his approval of Klein's action is of considerable value in the public-relations battle that is accompanying the courtroom battle. But my impression is that Klein is uncomfortable advocating positions the intellectual content of which he finds questionable, one reason many say he prefers his present job to his former position trying to chase down Whitewater documents as deputy counsel in the White House. Bork's support has raised his comfort level in the Microsoft case quite considerably.

Kent Lemon

Joel Klein

The Gates vs. Klein fable, besides being misleading on the level of personalities, also misconstrues the nature of the antitrust laws. Their purpose is not to humble and cut down to size businesses that get too big. True, at times over the past century a bigness-is-bad philosophy may have held sway in the Justice Department's antitrust ranks. There have been intellectual lapses, too—notably a failure to understand that certain business practices that seemed on surface examination to be anticompetitive were, in fact, designed to encourage competition and innovation. But antitrust decisions based on bad economics, or on hostility to business, have been the exception rather than the rule, especially in recent years.

The theme of these decisions is that bigness is fine, so long as it is obtained by means consistent with the law, and that the market power of the firm must be considered in deciding which tactics are permissible. Just as the criminal law distinguishes between Mike Tyson's fists (lethal weapons) and mine (no serious threat to anyone, even when deployed in anger), so does antitrust law draw distinctions about competitive tactics. A hardball contract used by a newcomer to ease its entry into a market might not lawfully be available to an incumbent with substantial market power. That makes good economic sense, as one goal of antitrust policy is to preserve ease of entry while at the same time preventing a dominant firm from using muscle rather than skill to maintain its market position.

Economists, of course, disagree about whether these principles have been correctly applied in specific cases. No surprise—there is no more reason to expect economists to agree on these cases than there is to expect them to agree on monetary or fiscal policy, the art being what it is. But few except those on the libertarian fringe would disagree that, where markets fail to operate competitively, the government is bound to do one of two things: It can regulate prices and entry, substituting the long arm of government for the invisible hand of Adam Smith, or it can restore the vigor of competition through antitrust enforcement that prevents conspiracies and the use of anticompetitive practices by firms with market power.

That is why so many conservatives are supporting the Justice Department in its action against Microsoft: They know that if Microsoft is permitted to extend its monopoly of personal-computer operating systems into areas in which it has no plausible efficiency claims, there will inevitably be a call to regulate it. And we know that regulation introduces huge inefficiencies, not least among them a tendency by regulators to protect those they are supposed to restrain. If you don't like regulation, you must like competition, and if you like competition—of the sort

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that allows the product with the combination of price and quality that most appeals to consumers to win pride of place in the market—it is hard not to see merit in the complaint that the Justice Department has filed against Microsoft. If Bill Gates thinks the Justice Department might stand in the way of further innovation by Microsoft, wait until he meets a regulator who is intent, not on opening up the channels of competition and then departing the scene, but a red-in-tooth-and-claw regulator who will poke his nose into every cranny of Microsoft's business—forever.

I leave it to the lawyers to argue over the details of the 53-page filing against Microsoft by the Justice Department. What strikes an economist who has labored in the antitrust vineyards for decades is the lack of novelty in this complaint. The Justice Department says that a firm with monopoly power in one market cannot be allowed to leverage that power so as to dominate another market in which its product faces competition. Nothing new there, even though the doctrine is being applied to a firm that is attempting to wrap itself in a New Age hi-tech aura so as to suggest that what's sauce for the industrial goose is not sauce for the software gander.

Market capitalism is supposed to reward those who produce goods that consumers want, at prices they are prepared to pay. If Microsoft thinks its Internet browser is better than rival Netscape's, it should put that to the test of the market, not tie its browser to its monopoly operating system. Indeed, internal Microsoft memoranda suggest that the company knew its browser had no chance in open competition with Netscape, and that it could only succeed if computer makers who wanted to license the Windows operating system—the de facto industry standard—also had to promote the Microsoft browser. Opposition to tie-ins like this is standard antitrust economics, which raises four pertinent questions:

¶ Are we dealing with separate products? Right shoes and left shoes are not separate products, copying machines and the paper they use are. So are browsers, which are sold separately from operating systems in your neighborhood computer store.

¶ Does the seller have market power? With some 90 percent of the operating-system market, and an ability to impose onerous contract terms on equipment manufacturers too fearful to complain, Microsoft clearly does.

¶ Is the dominant seller tying the sale of its competing product to its monopoly product? So it seems. If an equipment manufacturer wants to get Microsoft's operating system, it must take the browser.

¶ Is the effect of all of this to lessen competition? That would seem self-evident, in two ways. Equipment manufacturers have a major incentive not to use other browsers, since they are forced to take Microsoft's, and Microsoft is given control of the on-ramp to the Internet.

Even Microsoft's defenders concede some of these points, but they argue that any cure would be worse than the disease. Not so. Actually, there are three available remedies. The courts could eliminate the anticompetitive clauses in Microsoft's contracts with equipment manufacturers, leaving them free to select the mix of software that they think will appeal to consumers. If the manufacturers all end up favoring Microsoft products when no longer compelled to do so, my guess is that Klein would be surprised but content to live with the judgment of the marketplace. In any event, there would be nothing new in a remedy that focused on eliminating anticompetitive contract terms. Or particularly damaging to Microsoft's long-term prospects: It is already easing the restrictions it has traditionally placed on manufacturers such as Compaq and Gateway, presumably in response to the pressures it now faces from the antitrust authorities.

Or the courts might decide to treat Microsoft's operating system as an essential facility that should be made available to all software providers on terms equivalent to those available to Microsoft. Again, nothing new there. Owners of essential facilities such as electric transmission lines and airline-reservation systems have similar obligations.

Or the courts might separate Microsoft into its component parts, with the monopoly operating system spun off, and operated as a profit-maximizing company with no incentive to discriminate in favor of any company's software products. That's what happened to the Bell System, with all of the advantages consumers have since reaped. And that is what is happening in the electric industry as competition is introduced.

These remedies, of course, await a prior finding that the evidence amassed by Joel Klein's lawyers is convincing. The public interest will best be served if that decision, one way or the other, is made promptly, which in antitrust terms means during the next two years. Which brings us to the final nightmare conjured up by Microsoft: an interminable trial (such as that inflicted on the parties to the IBM litigation of the 1970s), costing the taxpayers millions and diverting resources that Microsoft would otherwise devote to innovation.

Odd that the company's publicists should bemoan that their client is about to become a prisoner of a slow-moving system of justice—while Microsoft's legal team petitions Judge Thomas Penfield Jackson

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to delay the start of the trial. Fortunately, Jackson has heeded the cries of Microsoft's lobbyists, ignored the pleadings of its lawyers, and insisted on an early (September) trial date, not as early as the Justice Department would have liked, but early enough to signal the court's determination to avoid a repetition of the 13-year-long IBM trial.

So we may, after all, enter the new millennium with a healthy, competitive software industry. That would be an industry in which entrepreneurs wake up every day with the salutary fear of being crushed, yes—but by their rivals' superior products, not by overweening market power.

Irwin M. Stelzer is director of regulatory policy studies at the American Enterprise Institute.

CLINTON FLUNKS

by Chester E. Finn Jr.

ANY DAY NOW, OUR "EDUCATION PRESIDENT" will strangle another newborn education program in its crib.

The last victim was a small voucher program that would have helped 2,000 impoverished residents of the District of Columbia flee the capital's rotten public-education system for the haven of safe, effective private and parochial schools—just as the Clinton and Gore children have done. "We must strengthen the public schools, not abandon them," thundered the veto message from the Oval Office. The cynical subtext, however, was, "Do as we say, not as we do."

Days later, the *Washington Post* reported the results of its own survey: Fifty-six percent of D.C. residents—including three-fifths of blacks and two-thirds of public-school parents—favor the kind of program that the president killed. But such data cut little ice at the White House. Sure, Bill Clinton often panders, and nowhere more blatantly than in education—witness his promotion of smaller classes and "universal" college attendance. But when it comes to placing K-12 dollars in parents' hands, even the will of the people cannot save programs that rile Bill Clinton's establishment friends.

The next candidate for execution is the measure known in Beltway argot as the Coverdell bill, after the Georgia senator who introduced it. Currently making its way through a Senate-House conference committee, this bill has become an ornate assemblage of programs and prohibitions and is meant by its backers to embody the Republican national agenda for K-12 education. Several key provisions have elicited veto threats from the White House, and the GOP leadership is weighing various parliamentary tactics to make the bill as awkward as possible for the president to kill. (One rumor has Ways and Means chairman Bill Archer tacking it to the hard-to-veto IRS-reform bill.)

At its core is Coverdell's proposal to expand tax-sheltered education savings accounts (a form of IRA) and—here's the hot button—allow them to be used not only for higher education but also for K-12 expenses, including private-school tuition.

Opponents charge that the actual benefit would amount to just a few dollars per household and that little of it would accrue to poor families, who pay little in taxes in the first place. But those are debating points. What's really at issue is a crucial precedent: whether so much as a dime of federal education aid will be entrusted—even indirectly, via the tax code—to parents rather than public-school systems. For if families can handle a dime, why not a dollar? And if a dollar, then how about the $15 billion or so that Congress will be steering when it takes up the reauthorization of the Elementary and Secondary Education Act (ESEA) next year? Barring a November upset, this will be the first time a GOP majority on Capitol Hill has had the chance to shape that huge mass of programs and outlays. For U.S. education policy, the stakes could not be higher. This year's action is an important preview.

Today, as has been true since Lyndon Johnson's time, all federal K-12 dollars sluice directly into state and local public-school coffers. This is a vast subsidy reserved for education's government-sector producers, completely out of reach of consumers and private-sector competitors. And that, of course, is precisely what suits the teacher unions and the rest of the public-school establishment—Clinton backers all.

But it is not the only possible way of doing things. It's worth recalling that, just a quarter-century ago, a Democratic Congress and Republican White House agreed to a very different strategy for *higher* education. An epic debate had raged over whether Uncle Sam should aid institutions or students. The colleges naturally wanted all the money to come directly to them. And they still get sizable sums. But by 1972 it was settled that grants and loans directly to students would thenceforth be the main channel for federal assistance—and recipients were free to carry those dollars to the institutions of their choice, public, private, pro-

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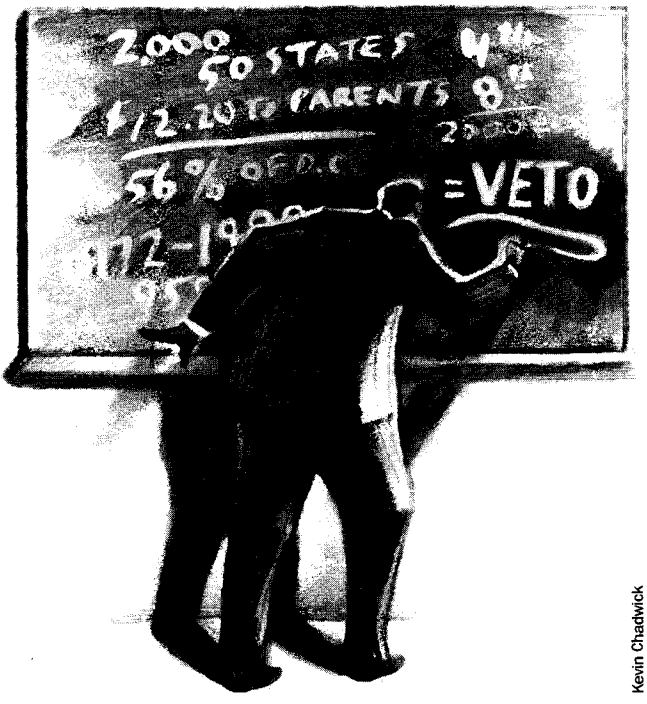
prietary, religious, whatever. Higher-education policy would be driven by consumers rather than producers.

This has not worked perfectly, to be sure. But it has fostered the world's best-regarded higher-education system, a lively marketplace of competing providers, and choosy consumers with plenty of decent options.

Elementary and secondary education, by contrast, remains in the iron grip of a government monopoly propped up by billions of federal dollars. The producers are totally in charge. The consumers (unless rich or lucky) must take what they are given. In terms of quality, this system falls near the bottom on most international rankings (except for spending levels).

Can this be changed? That's the real issue posed by Coverdell's bill. While the bill wouldn't give much aid to any family, it would mark the first time that Uncle Sam had entrusted even a pittance to the K-12 consumer—as bold a departure for education as private-investment accounts would be for Social Security. That's the precedent that Republicans are keen to establish via Coverdell. (The dead D.C. voucher program embodied the same principle.) And that, of course, is precisely what President Clinton and his allies have vowed to block.



Kevin Chadwick

The ESEA reauthorization isn't all that lies ahead. The 1998 and 2000 elections are in sight, and both parties are positioning themselves on the education issue, which has risen to the top of many voters' concerns. At heart, the Democrats remain the party of the public-school monopoly, though they are shrewdly advertising such customer-friendly specials as more teachers, smaller classes, and new classrooms. The GOP isn't nearly so deft—and polls show most voters have greater faith in the Democrats' handling of education. Nevertheless, the Republican party is seeking to establish itself as the ally of education's millions of consumers. Both sides claim to be interested in quality and in better teachers, and they sometimes converge in support of innovations such as charter schools (a cross between public education and the free market). But their core difference in philosophy and strategy is more conspicuous today than ever before.

That difference was on display when the Senate debated the Coverdell bill. Dozens of amendments were offered. The Democrats strove to insert subsidies for school construction and additional teachers. These were rebuffed by the GOP majority, which managed to add a dozen riders of its own. Many were sound: permission for single-sex schools to receive federal aid, a phonics-based literacy program, a resolution that 95 percent of Uncle Sam's money should reach the classroom, and so on. One of the riders—Slade Gorton's conversion of most current federal programs into an optional "block grant" for states and communities—is almost as scary to the education establishment as Coverdell's core proposal. (If it survives the conference, it's veto bait, too.)

The Senate blundered, though, when it assented to an amendment by John Ashcroft to ban further development of national tests. After a huge fracas last year, responsibility for shaping voluntary, standards-based tests of 4th-grade reading and 8th-grade math was turned over to the National Assessment Governing Board, which has been quietly and carefully vetting test questions to make sure they're solid. The next step is to "field test" those items to see what happens when children confront them. (Not all test questions "work.") That's what Ashcroft mustered a majority of his colleagues to forbid—as did the House of Representatives earlier in the year.

Though the current plan for national testing sprang from the Clinton White House, the concept of standards-based national tests goes back to the Bush administration, and Republican politicians should realize that it remains vital to the GOP strategy for reform. No consumer-based system works well unless the consumers have reliable information about how the competing producers are doing. In education, that mostly means test scores, child by child and school by school, tied to high standards that signal what well-

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educated youngsters *should* know.

Practically nobody wants federal officials themselves to set those standards and interpret those scores. But practically everyone who has thought seriously about how to reconstruct American education has figured out that some authoritative body must do this. To block such information, as a majority of congressional Republicans voted to do, is to play into the hands of the school establishment—and continue to deny consumers effective power.

Standards and testing remain GOP blind spots, but the rest of the Coverdell bill is solid. It will, however, almost certainly be vetoed by a president again declaring his fealty to "public education." Republicans lack the votes to override the veto, which means that federal K-12 dollars will continue flowing exclusively to producers. The stage will be set for a clash in the coming elections—as well as in the year to follow, when Congress turns to programs that dispense serious money.

Chester E. Finn Jr. is John M. Olin fellow at the Hudson Institute and president of the Thomas B. Fordham Foundation.

NEWT IN THE CHINA SHOP

by Matthew Rees

HOUSE SPEAKER NEWT GINGRICH demanded an explanation when the story broke last month that a big Democratic donor, already under investigation for illegally giving military technology to China, got special treatment from the Clinton administration. "If the president won't share this information with the Congress on these matters, then he and his administration are guilty," Gingrich said. More recently, he described the president's upcoming trip to China as "very inappropriate." Against this backdrop, it was all the more surprising when Gingrich stepped forward on June 3 to become the first congressional Republican to endorse Clinton's call for renewing most-favored-nation trade status (MFN) for China.

WHETHER GINGRICH CAN CONTAIN GOP UNREST IS UNCLEAR. THE NEWS ABOUT CHINA AND THE ADMINISTRATION CONTINUES TO DEEPEN SUSPICIONS.

Like other Republican leaders, Gingrich was trying to balance his support for MFN with his concern about national security. But it didn't work. By rushing to embrace MFN, the speaker gave up his leverage with the president—and got nothing in return. His endorsement also threatens to undermine the GOP effort to expose the shortcomings of Clinton's broader China policy. Indeed, Gingrich's letter to the president endorsing free trade with China—also signed by Ways and Means chairman Bill Archer and Ways and Means subcommittee chairman Phil Crane—was so supportive of MFN it could have been the work of a Clinton speechwriter.

There's another problem. Gingrich's support for MFN—proclaimed the day before the ninth anniversary of the Tiananmen Square massacre—drives a wedge between the speaker and many rank-and-file Republicans, who are hungry for ways to zing the White House. Gingrich has also alienated social conservatives, led by Gary Bauer of the Family Research Council, who called the speaker's letter "extremely disappointing." The social conservatives would have liked Gingrich at least to withhold his endorsement for a couple of weeks or to make it conditional on cooperation from Beijing in the investigation into the Chinese military's use of Johnny Chung as a conduit for contributions to the Democratic party.

Gingrich is not the only Republican leader trying to reconcile support for MFN with national security. In the Senate, majority leader Trent Lott faces pressure from many of his fellow Republicans to crack down on China. He's made some encouraging noises, saying he's rethinking his past support for MFN and indicating he could support the legislation already passed by the House to stop indefinitely all satellite exports to China. But in the current environment of skepticism toward China, Lott has been far from hawkish.

This vacillation has left an opening for more junior Senate Republicans to pursue a confrontational China policy. Leading the effort has been Tim Hutchinson of Arkansas. Last month, when it looked as though a number of House-passed bills critical of China weren't going anywhere in the Senate, it was Hutchinson who bucked Lott and introduced two of them as amendments to the defense authorization bill. Both passed easily, and his success has emboldened other Senate

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Republicans. Spencer Abraham, John Ashcroft, and Jon Kyl are expected to offer further tough-on-China House legislation as amendments to the defense bill this week.

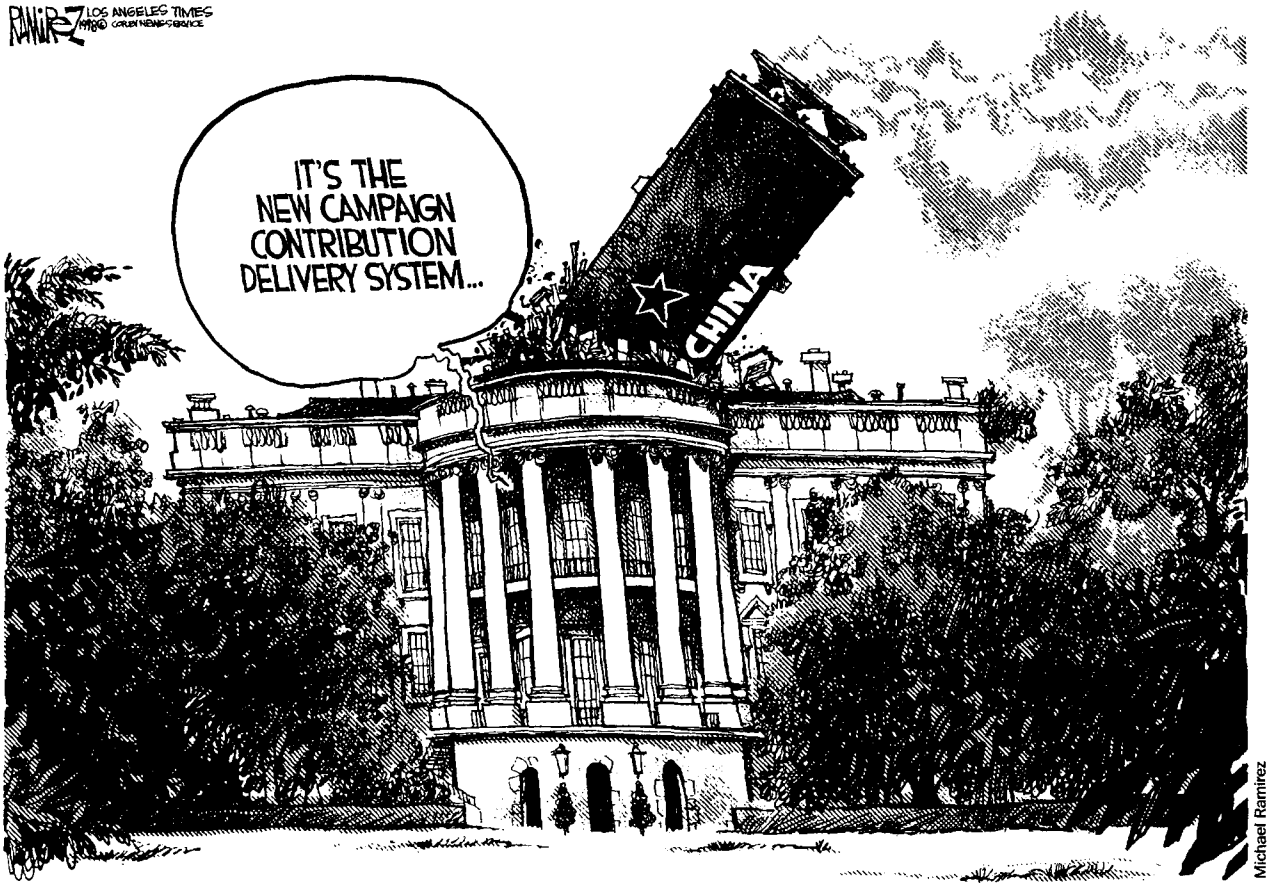
So why did Gingrich move to support the White House on MFN so promptly? His aides have little to say on the matter, and it's all the more mysterious in light of a recent ABC News poll showing that while Clinton has a 60 percent approval rating for foreign affairs, only 40 percent approve of his China policy. (The same poll found that just 34 percent of those surveyed have a "favorable" view of China, while 52 percent have an "unfavorable" view.) One possible explanation for Gingrich's move is that he sensed an anti-China rebellion brewing in the House and felt he needed to nip it in the bud.

Sure enough, House members *are* stepping up their criticism of China. On June 4, 85 Democrats joined 219 Republicans in urging Clinton not to visit Tiananmen Square—an idea proposed two weeks before in a Bauer-initiated letter signed by a bipartisan group of human-rights activists.

Whether Gingrich can contain GOP unrest on China is unclear. The news about China and the Clinton administration continues to deepen the critics' worst suspicions, and the Clinton administration's continued lack of cooperation with Republican requests for information complicates Gingrich's ability to support the administration on trade while berating it on national security. Rep. David Dreier, a Gingrich ally and ardent MFN supporter, concedes there's "a high level of frustration" with Clinton's China policy and says it will be "a lot harder" to get MFN through the House this year than in years past. Rep. Matt Salmon, a Mandarin-speaking Arizona Republican who supports renewal of MFN, says the Clinton administration "deserves a D- or an F for its overall policy toward China."

It's doubtful Lott and Gingrich will ever be as intensely critical of the Clinton China policy as some of their GOP colleagues would like. But growing numbers of Republicans are questioning a policy of near-blind engagement. They would probably join a serious challenge to Clinton on China. If GOP leaders won't mount such a challenge, who will?

Matthew Rees is a staff writer for THE WEEKLY STANDARD.



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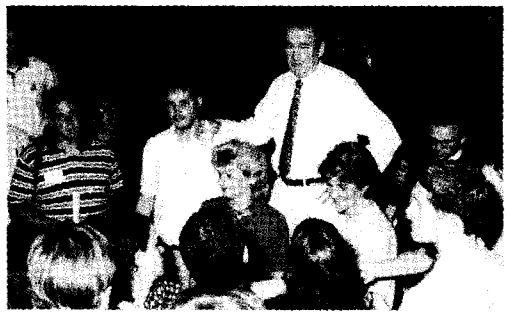

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BARRY AND ME

By Robert D. Novak

I first met Barry Goldwater in 1957, when I was a 26-year-old reporter for the Associated Press helping cover the Senate Rackets Committee's investigation of organized labor. I liked him immensely. He was a reporter's dream: friendly, funny, and oh so helpful, telling just about everything he knew, particularly if it might embarrass the Kennedy brothers—Jack, a member of the committee, and Bobby, its chief counsel.

In 1959, my first full year as Senate correspondent for the *Wall Street Journal*, the committee's revelations had made labor reform a popular cause. Goldwater, as ranking minority member of the Labor Committee, was the Republican senator in charge of the issue. The *Journal* covered the great fight over labor legislation as the *Sporting News* covered baseball, so my relationship with Goldwater prospered. He liked the *Journal*, trusted me, and bestowed on me inside information about his strategy.

Goldwater was the first to admit that he was no legislative strategist. He delegated that to Michael J. Bernstein, Republican chief counsel on the Labor Committee, who liked to quote Hannah Arendt and Schumpeter and approached labor reform as a chess game. Bernstein's plan was to draft 100 amendments to Sen. John F. Kennedy's bill, none of which would have a chance in the overwhelmingly Democratic Senate.

But Goldwater's detailed explanations of these amendments would accomplish several things. They would slow down Kennedy's bill, intended to help carry him to the Democratic presidential nomination. They would highlight the need for basic reform legislation to fight corruption and ensure union democracy. And they would burnish Barry Goldwater's credentials as the emerging Mr. Conservative. Bernstein and the senator explained it all to me, and I had a big exclusive on the back page of the *Journal*.

Robert D. Novak is the author of a syndicated column and several books.

But after just two or three amendments lost, Goldwater called it a day. No more amendments. Seated in the press gallery, I was stunned, and I rushed down to call the senator off the floor. What about my exclusive? What about your plans? "Oh," Barry told me, "it's just too much trouble. Anyway, I made my point." Bernstein could only shrug. For the first time, I entertained the possibility that Goldwater was not entirely serious about politics or government.

I became sure of it over the next five years, as we occasionally shared the bottle of Old Crow he kept in his office. He loved ribald jokes, political gossip, and gabbing about his ham radio. He resented union power, but wasn't particularly interested in blocking it. An Air National Guard major general, he showed greater commitment to taking the offensive in the Cold War, but he involved himself in the nuts and bolts of military preparedness rather than in grand strategy. And he wasn't at all interested in economics. I never heard him describe himself as anything other than a conservative, and certainly never as a libertarian.

One of Goldwater's strongest political views, oddly, was contempt for Dwight Eisenhower, then the only Republican elected president since Herbert Hoover. He called the Eisenhower administration "the dime-store New Deal." A few days before the 1960 election, from somewhere on the road, I telephoned Goldwater at his home in Phoenix. He made clear he thought Richard Nixon would lose because he had gone too far in courting the black vote and liberals, forfeiting a golden opportunity to sweep the South.

A few months after Kennedy's victory, Mike Bernstein prepared an ingenious document outlining how Goldwater could run for president as neither a stereotypical conservative nor a me-too moderate, but pointing to government schemes to appeal to "that dragooned and ignored individual, The Forgotten American." He meant Catholics, old-age pensioners, and labor-union members—all

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disaffected from their ancestral home in the Democratic party. With Goldwater's approval, I revealed the plan (calling it the Goldwater Manifesto) in a *Wall Street Journal* front-page exclusive. It took only a few vitriolic conservative attacks on Goldwater for abandoning the true cause before he turned away from the plan—and from Bernstein.

He often indicated to me that he didn't really want to be president or even to run. Once in 1963, when I told him he actually could be nominated, he replied, sincerely I think, "Oh, please don't say that!" In the end, he ran because a grass-roots movement had built up in support of him, because he was angry about Nelson Rockefeller's attack on him, and because he harbored genuine hostility toward the eastern Republican establishment.

He was a most unusual candidate. During the crucial California primary campaign, I covered a Goldwater rally in Long Beach. The senator spotted me and asked me to join him later in his suite at the old Ambassador Hotel in Los Angeles. The place was filled not with politicians but with friends from Phoenix and southern California. Barry was in high spirits, and we had a lot of fun gossiping about the Senate and politics, telling jokes and drinking—a lot of drinking. I barely made it to the campaign plane the next morning, but it didn't matter because the senator—as hungover as I—was late.

That night in Los Angeles turned out to be our last intimacy. When he was nominated that summer in San Francisco, he declined to see me. I suspect he thought that the column I had started writing in 1963 with Rowland Evans was too tough on him and too sympathetic to the hated eastern liberals. Our separation was punctuated during platform-committee hearings at the St. Francis Hotel, when I slugged an obnoxious California Young Republican who called me "slimy" for allegedly misquoting him a year earlier (luckily for me, bystanders separated us before my younger, more robust adversary could retaliate).

During the long years that followed 1964, I never tried to interview Goldwater, despite having spent so much time with him the previous five years. Wonder of wonders, by the 1980s I felt I had moved to the right of a Barry Goldwater who deplored religious conservatives and had changed his mind about abortion. We talked just once more, briefly but cordially, during his second hitch in the Senate, at a Hay-Adams Hotel dinner party given by Clare Boothe Luce. It reminded me of a long-divorced couple's meeting after years of separation.

Over the last three decades, I have felt that I betrayed Goldwater—not in my columns but in the vote I cast on November 3, 1964. Like millions of other registered Republicans that day, I voted for Lyndon Johnson. I thought that Goldwater would be as disorganized a president as he had been a senator, while Johnson I knew to be one of the greatest Senate majority leaders of all time.

Since then, I have decided it is the better part of wisdom to vote for the presidential candidate I most agree with and forget about measuring his skills. By that standard, Goldwater clearly won the contest, so I regret denying him my vote. In addition, for all his failings, his patriotism was such that he would not have made LBJ's deadly blunders in Vietnam and probably would have spared America much grief. But of course, as I first saw back in 1959, he never could have been elected. ♦

THE GREAT POLARIZER

By Jeffrey Bell

Barry Goldwater burst onto the scene at the tail end of one of the least polarized eras in the history of American presidential politics. The Eisenhower-Stevenson races of 1952 and 1956, and the Kennedy-Nixon election of 1960, were virtually free of memorable issues. Much was happening in global and even domestic politics, including a Cold War that kept threatening to get hot and the dramatic climax of the McCarthy era. But little of this turmoil was reflected in the presidential campaigns. With the seemingly apolitical Eisenhower,

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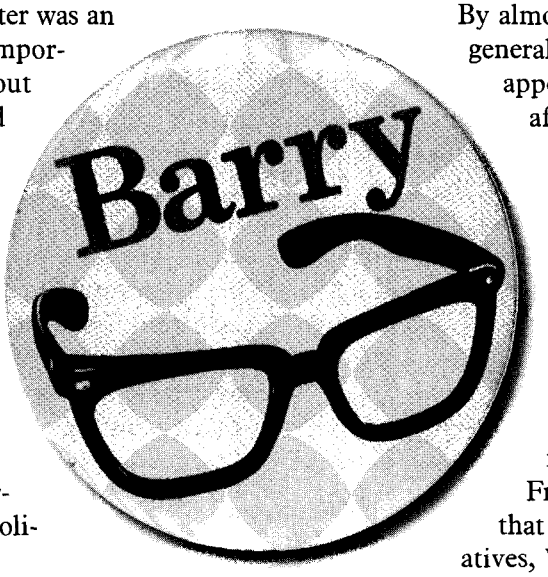
Republicans had won their first two elections since the Depression, and they had come within a hair's breadth of winning again with the supercautious "new Nixon." The conventional wisdom among most GOP strategists was, the less said about issues, the better. No one guessed what lay just ahead.

What lay ahead was the 1960s, and Goldwater was the first true 1960s politician. He used words as a weapon. Unlike his immediate predecessors (including John F. Kennedy), he tried to widen the gap, actual and perceived, between the two parties. He was the first important politician to embrace the label "conservative," though he admitted he would have preferred to be seen as liberal in the older sense.

To young conservatives like me, coming of age in the early 1960s, Goldwater was an electrifying figure, the only important politician who talked about rolling back the New Deal and winning the Cold War. It is difficult to exaggerate the disdain we Youth for Goldwater types had for Nelson Rockefeller, William Scranton, and John Lindsay. We saw them (not altogether inaccurately) as narrowly ambitious men willing to squeeze the last drop of juice out of the Republican party, and thus out of American politics itself.



Thanks in considerable part to the rise of Goldwater, the presidential elections of 1964-84 were, on average, as polarized as those of 1952-60 had been bland; but almost nothing in American politics before or since was as polarized as the Goldwater-Rockefeller battle for the Republican nomination in 1964. In particular, Goldwater's narrow triumph over Rockefeller in the winner-take-all California primary 34 years ago was as close as I've experienced to emotional Armageddon, even though I was going to college on the other side of the continent at the time.

In retrospect, the most remarkable thing about Goldwater was his willingness to take on the moderate-to-liberal establishment, which pretty much dominated both parties, at the points of its greatest strength: its record of bringing the benefits of a then-popular welfare state to more and more people, and its ability to keep the peace at a time when most Americans were worried about nuclear war. Perhaps Goldwater's sense of his own vulnerability, due to the establishment's strength and his own near-reckless courage, is what made him an unusually reluctant presidential candidate. It took Herculean efforts by F. Clifton White, *National Review*'s William Rusher, and other experienced strategists associated with the New York-based Draft Goldwater committee to push the senator into the race. I've often wondered whether Goldwater's resentment at being forced to run was a factor in relegating White and the other sophisticated, mainly Eastern, conservatives who launched the Draft Goldwater committee into a peripheral role in the general-election campaign against Lyndon Johnson.

By almost any standard, Goldwater's general-election campaign was a disappointment. On the morning after his crushing 44-state defeat, it was not self-evident, even to many fervent Goldwaterites, that the enormous mobilization of human resources in 1964 would lead anywhere.

But events in the next two years quickly made plain that politics would not revert to 1950s blandness. From my own perspective and that of many other young conservatives, William Buckley's brilliantly eccentric campaign for mayor of New York in 1965 proved that conservative ideas could appeal to downscale, blue-collar voters in a way that the Goldwater campaign had failed to do. And in 1966, the victory of Ronald Reagan in the race for California governor, along with other conservative gains, suggested even more clearly that the Goldwater phenomenon was a beginning, not an end. That these gains were intimately related to the growing vulnerability of the liberal policy mix, what with urban race riots, Great Society failures, and American frustration in Vietnam, only added to the sense of possibility for the conservative movement in 1966 and beyond.

What is the relevance of the Goldwater surge three decades ago to the situation conservatives find themselves in now? In its growth and activism, the present-day phenomenon that most resembles the

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Goldwater wave is the social-conservative movement. Like the Goldwaterites, social conservatives are the main if not the only dynamic force at the Republican/conservative grass-roots, though they are viewed with great suspicion in moneyed circles and in the GOP's high command. For millions of social conservatives and their political leaders, the unanswered question today is the same as it was for Goldwaterites in the 1960s: Is the movement's potential limited to pushing politics a bit to the right on two or three core issues, or is it capable of growing into a national movement that has something to offer across the range of issues, including those outside its narrow franchise?

This genuine uncertainty, I believe, accounts for a lot of the rancor one observes among social-conservative leaders who, on paper, disagree on very little. This strategic uncertainty is unlikely to be resolved in advance of future elections. Social-conservative leaders who are optimistic about the potential of their movement in late-1990s America should remember that they need not convince all their peers.

How many conservative leaders did Ronald Reagan convince in 1982 that Soviet communism would within a few short years find itself on the ash-heap of history? Like Reagan, the optimists among the social conservatives will win the argument at the elite level only by going out and changing the world. ♦

THE LAST LAUGH

By Michael Barone

Barry Goldwater was the sort of citizen-politician the Founders originally hoped would lead the republic. No one foresaw how far he would go, when in 1952, the proprietor of his family's department store and a second-term member of the city council of Phoenix, Ariz. (1950 population: 106,818), he decided to run for the U.S. Senate. He won by 6,725 votes. His opponent, Ernest McFarland, was the Senate majority leader, and McFarland's defeat opened the Democratic leadership post to a young Texas freshman, Lyndon Johnson. In the new, now-Republican Senate, majority leader Robert Taft talked Goldwater out of a seat on the Interior Committee—important to Arizona—and gave him one on Labor, where he was bound to arouse the opposition of the unions. He looked very much like a one-term senator; he seemed to have no ambition for a lifelong career in the Senate, much less any interest in one day running for president.

TO HIS OPPONENTS, GOLDWATER SEEMED LITERALLY CRAZY. OVER 1,000 PSYCHIATRISTS SIGNED A STATEMENT CALLING HIM UNFIT TO BE PRESIDENT.

Goldwater's emergence as a national conservative leader was something of an accident. The year he came up for reelection, 1958, turned out to be heavily Democratic. The unions targeted him. But as throngs of young veterans moved to Arizona, the state was moving right. Goldwater beat McFarland handsomely, 56 percent to 44 percent, while prominent conservative Republicans were mowed down elsewhere—William Knowland in California, John Bricker in Ohio. The one Republican besides Goldwater left standing with a big victory was Nelson Rockefeller. Within two years, Goldwater had published *The Conscience of a Conservative* and come forward as Richard Nixon's chief challenger from the right at the 1960 convention. There followed the draft-Goldwater movement and the 1964 nomination of the major-party nominee least ambitious for the presidency since Alton B. Parker in 1904.

To his opponents he seemed literally crazy.

Michael Barone is senior staff editor at Reader's Digest *and co-author of* The Almanac of American Politics.

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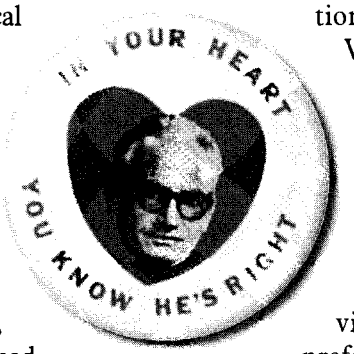
Goldwater helped inspire the brilliant historian Richard Hofstadter to write an essay, then a book, on the paranoid style in American politics. There were few murmurs of disapproval when magazine editor Ralph Ginzburg surveyed psychiatrists to find out what Goldwater's problem was. A committee obtained the signatures of 1,189 psychiatrists to a statement that Goldwater was not "psychologically fit" to be president. Respectable opinion was firmly of the belief that history moved leftward, that government grew ineluctably larger and more generous, and that, in Arthur Schlesinger Jr.'s wonderful phrase, conservatives had to be dragged kicking and screaming into the 20th century.

But Goldwater and his fans have had the last laugh. He was ridiculed for suggesting that Social Security should be made voluntary. Now leading Democrats call for radical reform. He was mocked for urging the sale of the TVA. Now the Clinton administration's TVA head seeks privatization. He was derided for saying that local governments should take on more responsibility. Two years ago a Democratic president signed the law defederalizing welfare. Wise men proclaimed that Goldwater's landslide defeat meant the end of conservatism. Instead, it was conservatism's beginning. It turned out that history does not inevitably move left, that an over-large government can indeed become incompetent and debilitating. Would all this have happened without Goldwater? Not in the same way or to the same extent. For he enabled conservatives to capture the Republican party and make it their instrument.



But Goldwater also did something else, which is less often noticed: He made the Republican party solidly internationalist, committed to waging and, in time, winning the Cold War. When he was elected to the Senate, conservative Republicans were still mostly isolationist. Robert Taft had voted against the NATO treaty. By contrast, the newly elected Dwight Eisenhower's chief ambition as president, Stephen Ambrose persuasively argues, was to cement the United States to the European alliance, to prevent another world war and stop totalitarian Russia from advancing.

Goldwater, with his enthusiasm for the Air Force and all things military, was with Ike. By the time he emerged from the 1958 election as the nation's leading conservative, the conservative movement was firmly committed to prosecution of the Cold War. The Republican split on foreign policy was over. There was nothing inevitable about this: Goldwater could have followed the line Taft took in the 1940s and that Patrick Buchanan has taken in the 1990s. But he didn't, and when the dominant voices in the Democratic party, sickened by their own administration's conduct of the Vietnam war, soured on internationalism in the 1970s and 1980s, the Republican party remained its champion.

No wonder Eisenhower warmly endorsed Goldwater in 1964: The former president had quietly shared Goldwater's economic conservatism, even while deeming it politically imprudent; and he must have recognized that Goldwater would help make the Republican party and the country internationalist for a generation.

Goldwater made another great contribution to foreign policy. His formula for Vietnam—"Win or get out"—was widely derided by Washington insiders, who hailed Lyndon Johnson's half-war, using force as a negotiating tool, as the quintessence of wisdom. It has long since been apparent that Johnson's course was folly. Either of Goldwater's alternatives—victory or retreat—would have been preferable. That lesson was learned by, among others, Ronald Reagan and George Bush. Where there was no good chance of winning, Reagan got out, as in Lebanon; where there was a good chance of winning, Reagan pursued it—even though, in the crucial instance of his strategy to bring down the Soviet Union, few perceived the soundness of his course. Similarly, George Bush understood that the only acceptable result in the Persian Gulf was victory. Long before, Franklin Roosevelt had seen that there is no substitute for it. Democrats, first in Korea, then much more disastrously in Vietnam, forgot this, to the detriment of their party and their country.

In the end, the citizen-politician, with his simplicity, was wiser than the systems analysts, with their sophistication. Goldwater had it right all along: Extremism in the defense of liberty is no vice. Not bad for a guy who rose to national prominence by happenstance and never wanted to be president. ♦

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Political Bodysnatching

By David Frum

In 1964, Lyndon Johnson called Barry Goldwater a "ranting, raving demagogue who wants to tear down society." What would Johnson say now if he could see Goldwater being saluted as a "truly fine man" by the first Democratic president to win reelection since 1964? In his cynical way, LBJ would probably mutter something about the infinite human capacity for hypocrisy. And he'd be very largely right. But not entirely. By the end of his life, Goldwater had become to Democrats what Harry Truman is to many Republicans—their favorite politician from the other party. That may seem like a strange end for the man on whom the Democrats unleashed the notorious "daisy" commercial, but it isn't really any stranger than the newfound Republican affinity for a man who once tried to nationalize the steel industry.

Much of the Democratic delight in Goldwater was the result of his proclivity—lifelong, but increasingly pronounced in his last years—for turning his sharp tongue on his own party. Goldwater had quotably cruel things to say about Richard Nixon, Jerry Falwell, Pat Robertson, and even his old friend and supporter Ronald Reagan.

But something more serious is going on. Despite his crushing 1964 defeat, Barry Goldwater exerted more influence on American politics than any other losing major-party presidential nominee of the twentieth century. Thirty-five years ago, Goldwater was condemned as a nut and extremist for advocating positions like school vouchers and privatization that today would qualify him for membership in the Democratic Leadership Council. The world has moved his way.

As a result, the hoary partisan debate over the role of government in the economy has become less contentious than it used to be. It would be ridiculous to say that liberals and Democrats have been converted to Goldwaterism. But it is true that Goldwaterite economics no longer excites the indignation and vituperation that it once did. The passion long ago leached out of the Democrats' commitment to the welfare state. Big government has become for them what farm programs are to Republicans: a necessary price of political survival, but hardly something one feels much enthusiasm for. And thanks to the end of the Cold War, the passion has leached out of the old liberal-conservative foreign-policy debate as well.

Where the ideological passion has drifted is to the spicy new issues of sexuality and morality. And there, of course, Goldwater in his last years aligned himself with the Democrats.

To be sure, some of the obituary writers attempted to find ideological consistency in Goldwater's late-in-life animosity toward social conservatism. The *Washington Post* explained that it was because Goldwater was a consistent "constitutional stickler" that he

> refused to join the Republicans of the New Right when they began to press for legislation that would limit the authority of the federal courts to curb organized prayer in public schools or to order busing for school integration. He opposed busing and backed prayer in schools, Mr. Goldwater said, but thought it a dangerous breach in the separation of powers for Congress to be telling the courts what to do.

But of course, the Goldwater of the 1950s and '60s had been perfectly willing to attack the decisions of the courts and to promise to curb their power. In his 1960 book *The Conscience of a Conservative*, Goldwater flatly denied the legality of the Supreme Court's decision in *Brown* v. *Board of Education*:

> Despite the recent holding of the Supreme Court, I am firmly convinced—not only that integrated schools are not required—but that the Constitution does not permit any interference whatsoever by the federal government in the field of education. . . I am not impressed by the claim that the Supreme Court's decision on school integration is the law of the land.

In those days, Goldwater understood that it was possible for the courts, just as much as for the legislature or the executive, to trample on the Constitution in order to aggrandize themselves, and that it is the duty of a constitutional stickler to denounce

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anti-constitutional measures from the bench every bit as much as anti-constitutional measures from Congress.

Others professed to see a consistent libertarian theme in Goldwater's adoption of the abortion and gay-rights causes. As he himself wrote in a 1994 article for the *Arizona Republic*, "The conservative movement was founded on the simple tenet that people have the right to live life as they please, as long as they don't hurt anyone else in the process." But in fact, Goldwater flip-flopped shamefully on abortion, running as a pro-lifer in his 1974 and 1980 races, and then abusing his former antiabortion supporters after deciding he would not run again. And with gay rights, Goldwater was not in fact advocating the right to live as one pleases: He was arguing for a federal statute banning discrimination on grounds of sexual orientation. Laws like that constrict the right to live as one pleases, by imposing new limits on the constitutional rights of freedom of contract and association. Back in 1964, Goldwater had treasured those freedoms so dearly that he was willing to countenance Jim Crow rather than compromise them. Thirty years later, he was prepared to cast them aside altogether for the sake of gay rights.

And yet perhaps there is a consistency here after all—if not a logical consistency, then an emotional consistency. Goldwater, a whisky-drinking former fighter-pilot, never had much use for moralism in politics, and even less for clergymen. He hailed from a part of the country where political events began with a round of bourbon on the rocks, not a prayer. It is Goldwater's dislike of moralism that may best explain why today's Democrats find him so congenial. Compare their feelings about him with their feelings about Pat Buchanan. From a Democratic point of view, Goldwater was wrong on economics, but right on gay rights and abortion—and was therefore a lovably cantankerous old cuss. Buchanan—right on economics, wrong on gay rights and abortion—is nothing less than the Face of Darkness.

HE HAILED FROM A PART OF THE COUNTRY WHERE POLITICAL EVENTS BEGAN WITH A ROUND OF BOURBON ON THE ROCKS, NOT A PRAYER.

Political bodysnatching is an old American tradition. After Ronald Reagan's invocations of Roosevelt, Truman, and Kennedy, Republicans can hardly complain if the Democrats want to try the same trick on Goldwater. But it's hard to imagine that Goldwater himself would be pleased. After all, in order to squeeze your statue of Goldwater onto the same shelf as your bust of Clinton, you have to do more than forget the Arizonan's contempt for political dishonesty and verbal weaseling. You have to forget his radical rejection of the social-democratic consensus that gripped America in 1964 and his willingness to pay a horrific price in personal reputation to help break that consensus. You have to forget *him*. And, for all his weaknesses and mistakes, he was a man who deserves to be remembered. ♦

FROM GOLDWATER TO REAGAN

By Gary Bauer

I was a senior in high school when Barry Goldwater ran for president. I was active in his campaign in my hometown, Newport, Ky., a blue-collar community with a strong union presence.

Goldwater wasn't an easy sell in Newport. But what I remember most vividly about 1964 is the intolerance of the activists on the left. The backers of LBJ were willing to use any means—fair or foul—not only to beat Barry Goldwater, but to destroy him. And they sought to stigmatize us, his supporters. As high-school kids, we were called fascists. I learned then that people who call other peo-

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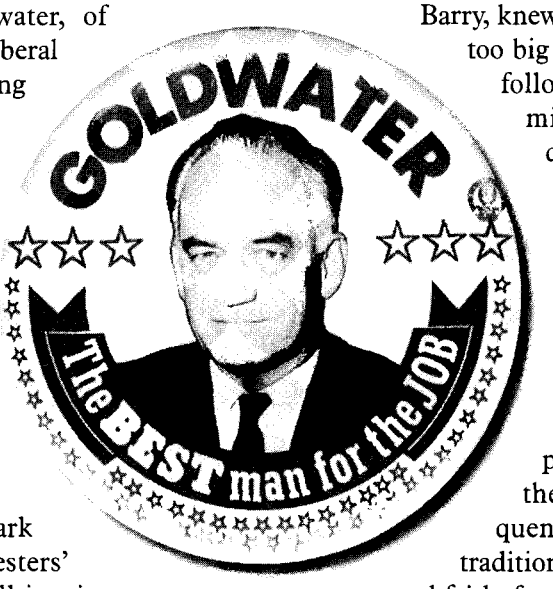
ple fascists are usually embittered ideologues who fear any real expression of the popular beliefs of everyday Americans. In order to win that campaign, liberals told the American people that their opponents were not simply wrong, but actually wanted to take the country into nuclear war. Liberals charged that the GOP candidate was not simply mistaken but probably insane. They sought to silence by name-calling what they could not oppose by reasoned argument. And they largely succeeded—at least in 1964.

Barry Goldwater eloquently made the case for limited government. He understood that we could not simply co-exist with the Soviet Union; we had to defeat communism. There was, and is, no substitute for victory. Goldwater, of course, suffered what all the liberal commentators called "a crushing defeat." But he was not crushed. Nor were we.



Lyndon Johnson's war on poverty quickly degenerated into a racial spoils system, an unlovely political pork barrel. The Vietnam war soon broke his presidency. His management of the economy set off an inflationary spiral that lasted for over a decade.

America suffered a long, dark night of the soul. The protesters' youthful resistance to LBJ still inspires the Left, but some veterans of those years call them "that slum of a decade." Three hundred dead a week in a war we would not win and could not leave, riots on campuses, and cities in flames marked the Johnson legacy.

Against Johnson's "credibility gap," there was Goldwater's manly candor. Soon, the nation realized that Barry Goldwater was a genuine man, a true son of the frontier West. He inspired thousands of young conservatives, who ever afterward would be proud to say they had stood with him in '64. Lyndon Johnson died a broken man, reviled by the very youths who had called us fascists.

Yet there was something obviously missing in Goldwater's appeal. My father, a wounded World War II vet, defended my right to campaign for Barry, but he didn't share my enthusiasm. Goldwater's astringent libertarianism never rang true to millions of everyday Americans.

They would wait for the man who could put it *all* together—Ronald Reagan. I remember watching Reagan's magnificent TV speech for Goldwater two weeks before the election we all sensed would be a disaster. I pointed to the screen and told my father, "That man is going to be president. And I'm gonna work for him in the White House." My father laughed off my prediction as "nuts." But he was proud to visit me in my West Wing office when I served as President Reagan's domestic policy adviser.

Reagan carried forward and completed the Goldwater message. For Reagan, too, knew that the "evil empire" had to be transcended. Reagan, like Barry, knew that government had grown too big and spent too much. Reagan followed Barry in honoring our military and beefing up our defenses. Barry supported him from his perch in the Senate.

But Reagan also went beyond Goldwater, for Reagan wanted not simply to shrink government, but to free Americans' native genius. He wanted not simply to cut taxes, but to sustain the family. Reagan spoke eloquently and unapologetically of traditional moral values. He trumpeted faith, family, and freedom. These were the successful answers to the liberals' vaunted compassion.

And Americans listened. Strong defense, smaller government, and traditional moral values proved to be a winning combination. Evangelicals and Catholics, two large communities that had been historically Democratic, responded to Reagan's call. For millions of these Americans, he was not only the first Republican in a generation to win their votes, he was also the first since Ike to win their love.

It was the Reagan message—conservatism with a human face—that brought all the great partners of the conservative movement together.

But Barry was first. We should honor him, even when, as I increasingly did, we disagreed with him. He was brave—and that is the first of all the virtues. ♦

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In Memoriam

Senator Barry Goldwater

"I have little interest in streamlining government or making it more efficient, for I mean to reduce its size. I do not undertake to promote welfare, for I propose to extend freedom."

Conscience of a Conservative, 1960

The Institute for SocioEconomic Studies joins the nation in honoring the late Senator Barry Goldwater. Arizona's native son had a unique ability to seek solutions to America's problems with "outside the box" thinking. Always principled and independent, Goldwater became a conservative icon while still speaking his mind and voting his conscience across political boundaries. His anti-big-government and anti-social-welfare doctrines were ahead of their time. One day, *all* Americans will know in their hearts that he was right.

In 1979, marking a long and valued association, the Institute was honored to present to Senator Goldwater its National Service Award for his lifelong vigilance in asserting the importance of individual freedom and the rights of older citizens to engage in productive work. We were proud to call this American original our friend.

Leonard M. Greene, President
Institute for SocioEconomic Studies
White Plains, New York
Author, *The National Tax Rebate: A New America with Less Government* (Regnery, 1998)

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THE CITY OF MANENT

A French Political Philosopher Examines Modernity

By Harvey Mansfield

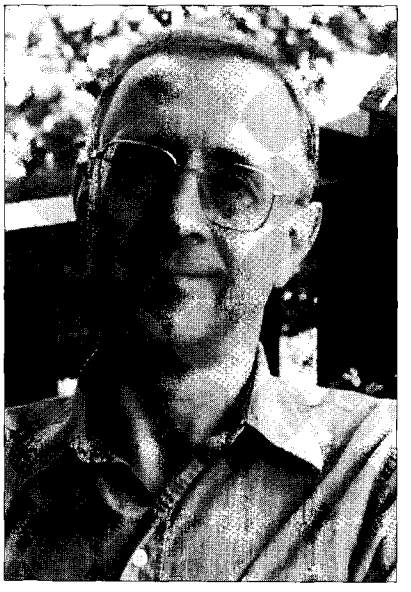
A book like Pierre Manent's *The City of Man* doesn't come along every day. Originally published in France in 1994 and now brought out in English by Princeton University Press, it is a fundamental book, and it raises a fundamental question: What is man?

Manent is a Frenchman, a student of the political philosopher Raymond Aron, and a professor of philosophy in Paris at the *Ecole des Hautes Etudes*—which could be rendered into English as the "School of Tall Studies" in a translation somewhat worse than the version of *The City of Man* by Marc A. LePain. In our increasingly under-educated country it may be pointless to say, but I'll say it: One good reason for learning French is to read prose like Pierre Manent's.

Manent's previous works include *An Intellectual History of Liberalism* (1987) and *Tocqueville and the Nature of Democracy* (1982), also recently translated. A volume of essays, *Modern Liberty and Its Discontents*, is on the way. For decades after World War II, his mentor Aron stood against communism and existentialism in France, and Manent, now forty-nine years old, is a leader in the succeeding generation of classical liberals (similar to our conservatives) now dominant in French intellectual life. He is the antithesis of the pretentious and pernicious theorizers of the radical "Generation of '68"—Jacques Derrida, Michel Foucault, Gilles Deleuze, and all the rest—who were through the 1970s and '80s so eagerly imported from France and retailed to politically correct universities by gullible American professors.

Harvey Mansfield is professor of government at Harvard University.

The question "What is man?" is almost never faced today, least of all by the experts—the philosophers and scholars—who each treat merely a slice of the question, never the whole. There is a reason for this: The modern experts, like the rest of us, are too involved in "modern man"—that species of human beings who must constantly strive to create themselves in new identities.



Pierre Manent
The City of Man
Princeton University Press, 225 pp., $24.95

Indeed, one set of experts—our academic philosophers—claims that we have reached a condition of post-modernity: living after modernity, but unable to leave it behind. With such recent identity-inventions as the "gender-neutral" human being, we have nearly exhausted the possibilities of invention: There simply aren't many new identities left. And so, we begin to wander the globe, borrowing other people's identities in the name of multiculturalism. The insatiable search for something new is all we have left.

In his search to find man—Man with a capital M, the essence or nature of human being rather than a historical type—Manent does not pretend that he has any place to begin other than from modern man. Since the Renaissance, modern thinkers have made a deliberate attempt to flee from the nature or substance or any enduring definition of Man, and that attempt has succeeded in eliminating unmediated access to older understandings.

Consequently, Manent examines, in six chapters, modern man. By concentrating first on the abstraction of particular men from Man, and then on the aggregation of those men in groups, modern thinkers lost focus on Man in his nature or essence. Indeed, we no longer even say or mean "Man"; we speak only of the "individual" and "society."

Since modern man comes into existence by tearing himself away from his nature, he creates himself with an enormous effort of thought. The adjective "modern" implies a comparison with the ancients and the medieval Christians, and a claim of overall superiority to them. The claim of "modernity"—of being modern instead of ancient or backwards—issues in a laborious conquest of existing societies, not by a military hero but by modern ideas.

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So Manent studies modern ideas in the modern philosophers. His book is about great books, the great books of modern ambition by such men as Montesquieu, Hobbes, Locke, and Kant. The argument is dense, but it proceeds by short steps of a page or two, so that the reader can stop often to breathe and look around at the prospect that has come into view.

What gradually emerges in the book is a vision not of a landscape but of "the city of man," the contrast to St. Augustine's City of God. Manent deliberately uses the old term *city* rather than such modern ones as *society* or *world*, to indicate his desire for kinship with St. Augustine and the ancient Greeks: The city of man is where we moderns live, but that city derives at least in part from ancient associations and traditions somehow fuller and deeper than the modern ones we believe to be our own.

From this fact—and from the general suspicion of modernity that appears in the book and may be a natural result of treating modernity as a whole—we could infer that Manent is conservative. His book, however, is neither addressed to conservatives nor directed against liberals. It will not please either party as such, and it will impress both kinds of partisan with the limitations of their arguments and their concerns.

Nonetheless, the effect of the book is to raise doubt about modern ideas and "the authority of the present moment." There is something dubious about a society devoted to the latest thing, Manent suggests—and that surely confirms a conservative instinct. There are, in fact, four points conservatives might learn from *The City of Man*: involvement, moderation, nobility, and practicality.

Conservatives distrustful of the latest thing sometimes try to turn simply to an old-fashioned philosophy that will provide them with a metaphysics of common sense—the philosophy of Thomas Aquinas, for example. Manent is a Catholic, and the last sentence of his book reads: "We never understand more than the half of things when we neglect the science of Rome." But that is his promise for a future book. In this one he examines the sources, the kinds, and the stages of modernity in the works of their best spokesmen: Montesquieu on the authority of history (a surprising choice), Montesquieu and Max Weber on sociology, Adam Smith on the economic system, John Locke on the self, and Kant and Nietzsche on the human will.

The reason for studying these fundamental authors of modernity is that we do not have direct access to the worlds in which Aristotle and Thomas Aquinas did their thinking.

THE CITY OF MAN IS USEFUL PRECISELY BECAUSE IT IS NOT ABOUT CONSERVATIVES. IT IS ABOUT MAN.

We are involved in modernity, however much we doubt and distrust it. Conservatives today who seek refuge in Thomas Aquinas almost always bring with them some favorite plaything or doctrine—the modern economy, perhaps—that does not belong there and cannot be made to fit into the Thomistic cosmos. Such conservatives fail to think things through, and they end up deluded and isolated. It's not that pre-modern thought is past and gone—far from it—or that any synthesis with modernity is impossible. But to make a synthesis, or even a compromise, one must be aware of the depth and extent of our involvement in modernity.

Manent does discuss David Hume, whom he calls *the* modern conservative. Hume, finding his liberal predecessor Locke to be skeptical about ideas but dogmatic about rights, asks why we should not be consistently skeptical about both ideas and rights. Thus Hume—the conservative defender of moral sentiment against the liberal notion of rights—actually radicalizes Locke's skepticism and concludes that moral sentiment has no justification in reason. Hume is the prototype of the modern conservative, because he comes to his conservatism by being a disgusted radical. It is as though there is no way to be skeptical of liberalism without being skeptical of everything.

The consequence, Manent shows, is that no connection exists between the observer of a moral sentiment and the agent who feels it. The observer thinks it arbitrary but useful and the agent thinks it right. The observer is the modern conservative surveying society, and the agent is the ordinary fellow whose prejudices the conservative patronizingly endorses.

How much more sensible and less elitist is the Aristotelianism that Manent invokes, which finds all political claims to be excessive and yet at the same time partly justified. A moderate, limited skepticism about particular claims is better than radical skepticism that makes everything arbitrary, including the skeptic's judgment. An Aristotelian conservative joins the political debate instead of standing disdainfully above it, as the skeptical conservatives do.

Manent's treatment of Adam Smith is particularly original and revealing. It focuses on the psychology of "the thinnest of all beings, *homo oeconomicus*" and his medieval predecessor, the feudal lord. The revolution that led to the dominance of economic man established "the economy"—a machine that runs like a watch, with fitness, dependability, and over-precision. And it has its contemporary form in the modern economic conservative seen as an aesthete: the Rolex conservative who trades the political power of an aristocratic lord—or even of a democratic leader—for the imagination that con-

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ceives ingenious contrivances of human industry. He abandons his desire for glory and indulges the desire for gadgets. Suffering from misplaced imagination and loss of nobility—the gleam in his eye deriving only from workaholic addiction—he has nothing grand in mind on which to spend the money he makes. Being vulnerable to taxation, he spends his time devising modes of evasion from public exaction; he stays away from politics so that he won't get fleeced. He does not have a great soul.

Out of revulsion for Adam Smith's economic system and its ignoble human products, another kind of conservative might go to an anti-political extreme and fall in love with Nietzsche. Nietzsche's call for a superman is intended to supply modern civilization with a hero, and his notion of the will-to-power is supposed to remind us of the hero's striving. But the will-to-power concentrates all meaning in the self and leaves the world to be understood haphazardly, as if things by themselves were all out of whack and could be assembled only by the power of human thought. The degree of sovereignty required to become a superman is so intoxicating that the superman quickly tires of politics and begins to think about becoming a god. The Nietzschean, self-creating conservative has no time for his fellow humans and no patience with truths that might be imposed on him. He scorns the small gains that might be made in politics without instituting a new religion, himself at the head. He does not care enough to be practical.

Manent's *The City of Man* is extremely useful to conservatives. The metaphysical conservatives, would-be disciples of St. Thomas Aquinas, can learn the need for involvement from reading this book. The skeptical conservatives, modeled after Hume, can learn moderation. The economic conservatives, followers of Adam Smith, can learn nobility. And the self-creating conservatives, drawn to Nietzsche, can learn practicality.

But *The City of Man* is useful precisely because it is not about conservatives. It is about Man. After examining modern man in his own terms, Manent judges him by older standards—standards that his analysis has freed from the most powerful modern conceits. He concludes that modern man is "the man who does not know how to be either magnanimous or humble."

Our restlessness arises from the attempt to flee simultaneously from these two extremes—from what is best in humanity. The elegance of Manent's book is matched by its elevation. ♦

THE OTHER VICTORIA

Feminist, Suffragette, and Scoundrel

By Lauren Weiner

Just after the Civil War, American women believed their political emancipation was at hand. Though they were still excluded from the ballot box, women already occupied a more advanced position in the United States than in any other country. Political exclusion of women would very shortly go the way of monarchy and slavery, the suffragists were convinced.

Barbara Goldsmith
Other Powers
The Age of Suffrage, Spiritualism, and the Scandalous Victoria Woodhull
Knopf, 531 pp., $30.00

Mary Gabriel
Notorious Victoria
The Life of Victoria Woodhull, Uncensored
Algonquin, 336 pp., $24.95

They were wrong. Female suffrage was another fifty years in coming, partly because the public was not ready for it in the 1870s, and partly, two new biographies suggest, because a human hurricane blew through the suffrage movement by the name of Victoria Claflin Woodhull. Born in 1838, the long-forgotten Woodhull was until her death in 1927 a controversialist who espoused nearly every "-ism" of her day—spiritualism, socialism, feminism—in a particularly flamboyant way. She was also a stockbroker, politician, and newspaper publisher. And very likely a prostitute. And definitely a blackmailer.

By the time she was done exposing, in the pages of her weekly newspaper, the adultery of the popular evangelist Henry Ward Beecher (it didn't seem right to Woodhull that she was being denounced as a harlot over her theories of "free love" while the adored paragon Beecher refused to admit he was practicing what she preached), Woodhull had widened the split between the New York and Boston wings of the suffrage movement. She even brought on a feud between her sometime defenders, Susan B. Anthony and Elizabeth Cady Stanton, thus enfeebling the New York wing.

Barbara Goldsmith's *Other Powers: The Age of Suffrage, Spiritualism, and the Scandalous Victoria Woodhull* conveys the rollicking adventures of "the Woodhull" in a less organized but much more honest way than does

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Notorious Victoria: The Life of Victoria Woodhull, Uncensored by Mary Gabriel. Goldsmith admits that her subject had flaws and so is able to elicit some sympathy for Woodhull at her most parlous moments, while Gabriel is always the feminist ideologue bent on portraying Woodhull as a lofty idealist and original thinker.

When, for instance, as part of a campaign to restore the Reverend Beecher's reputation, Woodhull was jailed in 1872 by the "informer-general" Anthony Comstock (promoter of the Anti-Obscenity Act of 1873), the preacher was exonerated by the members of his church in Brooklyn, and Woodhull, who had printed the truth about the man's "demanding physical nature," was reviled. Goldsmith gets us to feel the unfairness of this, while Gabriel prompts in the reader an urge to deny Woodhull any sympathy or credit.

Goldsmith takes as her main theme the interrelation of the spiritualist and feminist movements. That interrelation, embarrassing as it may be, is a historical fact. As a new religious movement, spiritualism gave women opportunities to lead; hence the prevalence of female trance speakers and mediums. Woodhull's mediumistic propensities came originally from her loony Ohio family. Her father, a "magnetic healer," con man, thief, and blackmailer named Buck Claflin, promoted both Victoria and her younger sister Tennessee as precocious spiritualists.

Woodhull objected to the exploitation, but she didn't object to money. In 1868, after the family had been chased out of various Midwestern towns and cities for running a house of ill-repute and for practicing crank medicine, Woodhull brought her two children, her second husband, and her sister to New York in search of fame and fortune. This strange entourage made contact with Cornelius Vanderbilt, who was as superstitious as he was rich. Tennessee Claflin soon became Vanderbilt's "magnetic healer," while Woodhull conveyed messages to him from his deceased mother and, in a trance state, gave him investment advice from which he apparently profited handsomely.

Thomas Nast's caricature of Woodhull as Mrs. Satan

When Vanderbilt set up the two sisters with their own brokerage firm, they reveled in the novelty of being the first female stock brokers on Wall Street. Some feminists rooted for Woodhull, while others were indignant, when in 1871 she came to Washington, brushed past the established suffrage leaders, and lobbied Congress for the vote. It was another first—no woman had ever testified before a congressional committee. Characteristically, the speech she gave, "Woodhull's Memorial," was written by someone else: congressman Benjamin Butler, the radical Republican and former Union general, who believed that women already had the right to vote under the Fourteenth Amendment.

The other prominent figure who guided her ideas was Stephen Pearl Andrews, a utopian socialist, philosopher, and votary of free love. Andrews, who controlled the editorial direction of the sisters' newspaper, *Woodhull & Claflin's Weekly*, was also a snake: He worked Woodhull into a frenzy about the hypocrisy of Beecher and abandoned her when the scandal broke.

Andrews also convinced the capitalist Woodhull that communism was best. Soon she was out on the hustings agitating for the rights of the workers, even becoming head of Section Twelve of the First International—until she attracted the disapproval of Karl Marx in Europe. Believing her social positions too radical, Marx expelled Section Twelve from the International.

"Free love" was actually a very elastic concept. Under its banner, reformers were advocating everything from a lessening of the social sanction against divorce, to "open marriage," to legalizing prostitution. Woodhull made a good deal of sense when she urged the acceptability of a wife legally divorcing a husband who drank, beat her, and failed to support the family. When goaded, however, to be more specific about her embrace of "free love," she would come up with defiant statements like, "If I want sexual intercourse with one hundred men, I shall have it."

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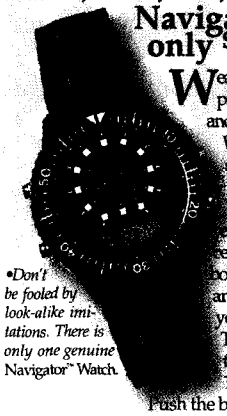

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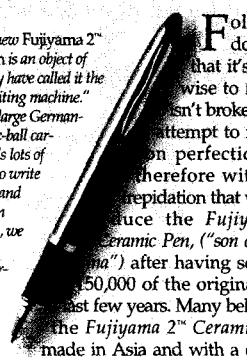

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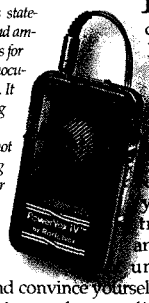
PowerVox IV™ only $39.95*



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The dour suffragists of Boston were no more amused by such racy stuff than Marx had been. Lucy Stone denounced "the Woodhull" as outrageously radical and, what was worse, déclassé. New York's Anthony and Stanton retorted that Stone and company were snobs and hypocrites. As the battle raged over whether or not Woodhull should be repudiated, Woodhull was busy compiling embarrassing information on the sex lives of men and women in the suffrage movement who were maligning her—threatening to expose them in *Woodhull & Claflin's Weekly* unless they contributed to her "Equal Rights Party" campaign for the presidency of the United States. Then came her Andrews-inspired disclosures about Henry Ward Beecher, her imprisonment for obscenity, and a legal action brought against Beecher by Theodore Tilton, the husband of Beecher's latest paramour. (The Tilton-Beecher case, a "trial of the century" extravaganza, ended in a hung jury.)

At the height of all this, Goldsmith shows, accusations of sexual impropriety were thrown at whoever was thought to be on Woodhull's side. The "Jezebel" charge was leveled even at the schoolmarmish Susan B. Anthony. That people could be brought to consider Anthony a loose woman—that they were ready to condemn female speechifiers and prostitutes alike with the epithet "public woman"—was proof of how fragile American women's freedom really was.

To point to this fragility is to take nothing away from the truth of Henry James's claim that the woman able to move about freely in the world without having her sexual honor impugned "was possible doubtless only in America." She was not only possible; she existed, and exists, as the characteristic American woman. It is, rather, to say that Woodhull's antics posed a threat to this new model of womanhood.

For in Woodhull's case, both meanings of the epithet "public woman" were close to the mark, as Goldsmith (but not Gabriel) concedes. In light of the danger of discrediting the new woman, it is more than understandable that, after Woodhull's financial and publishing empire crumbled and she fled in disgrace to England, loaded with hush money from the Vanderbilt estate, she was expunged from the feminists' collective memory.

That we can afford to take her out and look at her now, in all of her impressive rascality, may just show how beside the point is agitation for further women's rights. Yet the wild Woodhulls of our own time—in ideology, if not in personality—plunge recklessly on. ♦

THE CHINESE TRADITION

Can Confucianism Support Human Rights?

By Charles Horner

China has a long political history and a long history of political philosophy, and many contemporary Chinese pretend to know more about them than they really do. The durability of Chinese tradition is, in itself, a point of pride. But a mastery of its details is usually too great a burden for one person. Besides which, few traditions have been so subject to reinterpretation.

"Confucianism," the simplest term for two millennia of Chinese speculation about society and politics, has had a manic time these past couple of centuries. It was once thought an insuperable barrier to China's entry into the modern world. It was then used to explain Chinese successes in that same modern world, whether in China itself or in the Chinese diaspora beyond. And more recently still, it has been humbled by panic in Asia's markets. Thus, the debate about "Asian" and "Western" values has taken yet another turn.

Wm. Theodore de Bary and Tu Weiming, eds.
Confucianism and Human Rights
Columbia University Press, 408 pp., $40

Charles Horner is a senior fellow at the Hudson Institute and an adjunct professor of politics at Washington and Lee University.

It is in the West that much of this debate has occurred, for it is here that a good portion of the inherited wisdom of the East has been neatly stored away. One thinks of the late 1940s, when efforts were made to tap into the Chinese political tradition for what was supposed to be, after all, a "universal" declaration of human rights. In short order, however, these efforts were suspended by the appearance of self-isolating Communist regimes in China, Vietnam, and Korea.

Then, in the 1950s, it was Wm. Theodore de Bary and his colleagues at Columbia University who began the project of collecting and presenting in English the classic intellectual works of the East Asian tradition. This and related enterprises—once thought to be lost in time—are surprisingly contemporary, and they have been continually expanded and updated. The Columbia University Press has now published a new anthology, *Confucianism and Human Rights*, edited by the tireless de Bary, who is still going strong as a profes-

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sor emeritus, leading a serious, energetic, and deeply informed discussion.

As we should expect, there is a range of opinion represented in this volume, for a tradition as rich as China's can be invoked for more than one purpose. For his part, de Bary embraces the idea that there is a "liberal" tradition in Confucian thought that is of great contemporary value and relevance, so that Chinese and Western notions of individualism are conceivably reconcilable. His co-editor, Tu Weiming of Harvard, on the other hand, sees the Confucian tradition reasserting itself more as a religious than as a secular creed, as "a way of life that demands an existential commitment on the part of Confucians no less intensive and comprehensive than that demanded of the other spiritual traditions, such as Judaism, Christianity, or Islam."

How will this high-minded discussion influence the actual practice of politics in the Chinese world? What does it imply for the establishment of democratic institutions in particular? Some on the frontline are optimistic. Not long ago, for example, Taiwan's recently installed premier, Vincent Siew, explained to an American editorialist that Taiwan's energetic democracy is, in part, a product of traditional Chinese culture. Confucianists, according to Siew, are in fact quite open-minded and, after an appropriate period of study and reflection, willing to incorporate worthy ideas and practices from other cultures—a judgment that Taiwan's "new politics" seems to confirm.

But as reports from the mainland continually remind us, Taiwan's democratic system is not the only mode of governance at work in the Chinese world, and not all Asian political leaders are as eager as Siew to proclaim the compatibility of Confucianism and democracy. In Singapore, for example, Confucianism is posed as an alternative to Western political thought, one that can protect those "rights" worth protecting without embracing the cultural decadence increasingly associated with American-style democracy.

More interesting still is the case of Hong Kong, soon to celebrate (if that is the right word) its first anniversary as a Special Administrative Region of the People's Republic of China. For on the face of it, a Chinese claim to open-mindedness is impressively confirmed by Beijing's stated policies toward the former British colony. In 1984, when the plans for retrocession were first announced, China said it was perfectly happy to have on its sovereign territory a self-governing enclave of some 6.5 million people, where the ancient Common Law would still hold sway, where the local government could make a wide range of international agreements on its own, and where Britain's prior assent, on behalf of Hong Kong, to various international conventions concerning individual rights would be respected by Beijing. These principles were further elaborated in the 1990 Chinese statute that serves as Hong Kong's de facto constitution.

Image Select/Art Resource, NY

Cynical or no, the Beijing regime understands that such declarations, merely as declarations, have, as party theoreticians like to put it, important theoretical implications, and perhaps even more important practical implications. They create a standard against which future conduct can be judged. Moreover, Hong Kong's unique regime obliges China to consider its own constitution and what it means. Thus, one Beijing newspaper referred a letter it had received to one of the country's most eminent law professors. How, asked the letter-writer, could it be consistent with the PRC's constitution to create, within the territory of China, an avowed non-Communist political entity, such as the new Hong Kong? The professor's authoritative reply, both encouraging and unsettling, was that the National People's Congress could create on the territory of China *any* kind of political entity it wanted. The late Deng Xiaoping, who had conceived the Hong Kong arrangement, spoke of "one country, two systems." Then why not three or four?

Chinese all over the world are conducting a raucous discussion among themselves about such future political possibilities in the Sinic world—China itself, Taiwan, Hong Kong, Singapore, and the farther diaspora. This noisy free-for-all is a fortunate consequence of the collapse of the Soviet Union and the persistence of Deng's reforms in China. It occurs at a time of widespread peace inside China itself, the past twenty years marking the longest continuous peri-

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od of civil peace in the last two centuries. Besides being boisterous and exuberant, the discussion is also conflicted, factionalized, and often petty.

For ordinary outsiders, whose general understanding of the "master narrative" of modern Chinese history is about two decades behind the times, the debate can be hard to follow. We now have to re-open old questions that the triumph of communism in China was supposed to have laid to rest. We now have to regard as relevant things that, only a short while ago, were thought to be of academic or antiquarian interest only.

In the older account, all roads led to the founding of the People's Republic of China. If, in the century before "liberation," other courses seemed possible, they were but false starts. Now, the not-very-well-kept secret about China is that communism there, both as a doctrine and as a system, is quite dead, its occasional signs of life merely *post mortem* twitching.

The deep-seated worry of attentive Chinese, whether in the regime or opposed to it, is that no one has a very clear idea of what will emerge in communism's place, since the process of replacement, analogous to the replacement of the old imperial system in the last century, is an ongoing one. It is carried on with great bursts of human energy that the present regime in Beijing is trying desperately to channel. But just as the collapse of the old imperial system did not in itself create anything even remotely resembling an orderly transition to the next thing, the process whereby China is now dissolving inherited Maoist arrangements could prove threatening not only to peace inside China itself, but also to the peace of East Asia and, possibly, the world.

This realization is what has brought older debates about the governance of this huge country to the fore, debates sometimes instigated by the regime in Beijing, sometimes harassed by it. The regime's intermittent brutalities actually bespeak the weakness of the system, not its strength. For all their cruelties, the current repressions lack real conviction. The regime, after all, claims to be one and the same as the Communist Party of China, a party with an awesome history of mass murder. In this respect, its current crimes are unimpressive, especially to the people it seeks to intimidate.

These crimes are widely understood as part of a rearguard action, embedded in a complex de facto political strategy. For there appears to be a so far unshakable consensus among the leadership that the great structural reforms in the country *must* go forward, even as there is an increasingly clear realization that the reforms will inevitably dissolve the old "substructure" of Chinese politics.

WE CANNOT EXPECT BEIJING TO TAKE HUMAN RIGHTS ANY MORE SERIOUSLY THAN WE DO.

Thus the rediscovery of older debates, the queries about roads not taken, and the open ruminations about the meaning of the Communist period in China's history. Does China really have much to show for the decades of Maoist mayhem, or was Chinese communism just as Ronald Reagan once described communism everywhere—a bizarre interlude?

China's reexamination of its own modern history looks, first, to the influences of Western political doctrines in play since the mid-nineteenth century. Older interests in constitutions, provincial assemblies, federalism, and confederalism are no longer the quaint and fanciful speculations of the early-twentieth-century Chinese political thinkers who delved into them. Instead, they speak to the practical issues of the day, whether in Tibet or Taiwan. Likewise, Deng's call for "socialism with Chinese characteristics" causes Chinese to recall decades of debate among partisans of neither the Nationalist nor the Communist cause; consideration of a "third way" is, today, comparably pragmatic. And, to this, there is the daily addition of every imaginable cultural and intellectual influence from the outside world. Chinese everywhere have long had networks of their own, which the telecommunications revolution has made more rapid and capacious.

What is less apparent, but probably more important, is the role China's own tradition will play in this ongoing discussion. Long trained to disdain it, China's intellectuals are coming only slowly to a reappreciation of it, and how some of it can be seen as supportive of "liberalization." More significantly, just as Chinese have relied on Westerners to interpret the Western tradition, they have also been substantially reliant on Westerners to interpret the *Chinese* tradition. This anomaly reflects the chaotic conditions of modern China that seriously disrupted normal intellectual life. It also mirrors the aims and ambitions of Western Sinologists who, in different ways and for different reasons, have long been united in their efforts to link Chinese tradition not only to the renovation of China itself but to a larger world civilization.

What gives high Western Sinology, even that of comparatively recent origin, its credibility to Chinese and Westerners alike is, first, the persistence of its ambition over decades, even centuries. Second is an astonishing erudition and a high scholarly standard, which puts to shame the superficiality of almost all contemporary "China watching." Third, and most important, is a kind of durability—the focus on the subject itself, the study of the thing at hand, without

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too much regard for evanescent political enthusiasms.

The non-Chinese world's preservation of the Chinese tradition in modern times has been the work of men and women from all over the world, of many different religious and political outlooks. These various Sinologists have embodied the range of political sentiments, from Hayekian to pro-Beijing sentimentalist, from conventional liberal to conventional conservative. So they would probably not agree with one another very much about most things having to do with politics or religion. But about the importance of keeping the Chinese tradition alive in China—and alive and influential in the world—they have been pretty much of one mind.

The cumulative effect of all of this is to establish a foundation for serious philosophical examination of the commensurability of Chinese and Western political thought. Can political methods in both the Sinic and Western worlds come more to resemble one another in actual practice, as distinct from the merely outward similarity of having "constitutions" and "parliaments"? Can enough knowledge be developed both there and here so that we can at least understand what we are arguing about? Are we stuck with a pleasingly polemical but rather superficial exchange of epithets about "Western" and "Asian" values?

In the end, one can wonder also whether China's renewed interest in the durability of Confucianism in the modern world is somehow an emulation of the West's willingness to be more assertive and confident about its own core convictions, especially in the realm of human rights and international protection for them. We know that in Bosnia (though not yet in Central Africa) the world is doing better in enforcing the law against mass murder, and, to take another example, that a Special Rapporteur of the U.N. Human Rights Commission, despite the many personal risks inherent in such a project, has publicized recent political murders in Iraq, whose secular radical regime was once protected against such revelations. Is yet another benefit of the collapse of communism the notion that there can be a more politically diverse group of "violators of human rights"?

One must resist the temptation to overinterpret. And yet there is the apparent fact that our own Department of State wanted Pol Pot tried for his crimes by a properly constituted international tribunal at The Hague and now proposes a trial for his surviving henchmen. Even the Chinese government, in what could prove to be one of the greatest tributes vice ever paid to virtue, may consider it prudent to acquiesce quietly in the proposal.

We cannot expect the regime in Beijing to take our interest in human rights and the rule of law any more seriously than we ourselves take it. Is Beijing coming to appreciate that there is no longer a Left to shield it from international criticism and even sanction, especially as China itself moves ever more to the right in its own social and economic programs? If we can make that case—that perverted versions of the West's own political tradition will no longer serve to protect arbitrary rule in the Forbidden City—we may now be poised to make the case that a perverted reading of "Confucianism" cannot protect it either.

For our ability to do so, we will remain indebted to scholars like de Bary, who have seen in traditional Confucianism its potential in modern times for promoting precisely that which the creators of the doctrine themselves sought in their own time—a cultivated and humane administration of civic affairs, one that need not rely on threats, coercion, or brutality for public order and progress, but rather on an ethical consensus, freely fashioned and accepted after rational deliberation. ♦

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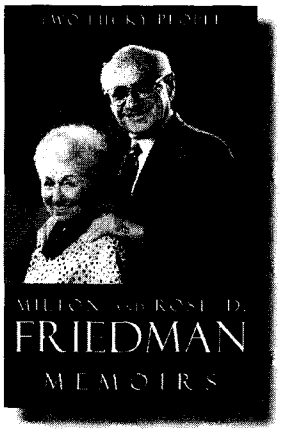

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I have kept Monica out of the grand jury for nearly six months. I have accomplished part of my goal. . . .

To my detractors and the naysayers out there . . . I say, bah humbug! . . . To them I say: Get into the arena; know the sweat, blood and tears that go into the process of winning and losing; don't remain on the sideline, cold, timid souls who never understand the thrill of victory or the agony of defeat! . . . A saying I am paraphrasing from the stone face of a famous Washington building says it all: "Those who do not study history are condemned to repeat it!" Have you no shame, Mr. Starr?

—William H. Ginsburg
"I Didn't Get 'Dumped'"
Washington Post, June 4, 1998

O Ginsburg! my Ginsburg!

O Ginsburg! my Ginsburg! Our fearful trip is done.
We've trolled our *Bartlett's* for clichés and dredged up every one.
We've called a dozen people liars, put Monica in a Speedo,
And filled the land with banter on her poulkes and libido.
O! No more! No more!
Courtroom glory waits,
But Monica's dumped my Ginsburg for
Cacheris, Stein, and Speights.

O Ginsburg! my Ginsburg! We'll miss your expertise!
As office staff from coast to coast are falling to their knees.
And Monica is cognizant of what your service means!
In two more years, she'll have an ad for No Excuses jeans.
Ave Koppel! Farewell chicks!
The biggest nerd of 'em
All is banished to the sticks
Where nobody's heard of him.

My Ginsburg does not answer; his countenance is piquey.
He totes his bulging scrapbook to a last lunch at I Ricchi.
He's flying back to LAX, he has a new employer,
For Monica needs just one thing—know what it is? A *lawyer.*
O Ginsburg! Kenneth Starr and I
Wax woeful, for the fact is
Ginsburg's going home to try
Extremely boring
cases involving a few
obscure provisions of
the California state
code governing medical
malpractice.

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The Court Jester Awards

Tuesday, June 23, National Press Club

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The Jesters ~ to show that Americans are serious about restoring democracy.

The Invisible Ink Award
To a judge who sees invisible words in the Constitution but can't see the words that are really there.

The See-No-Evil Award
To a judge who turns a blind eye to crime ~ insisting that criminals are victims of society.

The "Overruled!" Award
To a judge who finds citizens incompetent to manage their local affairs, opting to manage them himself.

The "Out of Order!" Award
To a judge who uses bizarre logic in lofty legalese to justify an absurd decision.

The Dishonorable Mention Award
A lifetime achievement award given to a judge whose career on the bench provides example upon example of decisions meriting the above awards.

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